FEDERAL REGISTER

VOLUME 9 NUMBER 57

Washington, Tuesday, March 21, 1944

The President

PROCLAMATION 2609

CHILD HEALTH DAY—1944

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Congress by joint resolution of May 18, 1928 (45 Stat. 617) has authorized and requested the President of the United States to issue annually a proclamation setting apart May 1 as Child Health Day·

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, in recognition of the importance to every child and young person of a healthy body and a sturdy spirit, do hereby designate the first day of May of this year as Child Health Day.

And I invite our boys and girls to use this occasion as a time to gather with parents, teachers, and other citizens, or by themselves, in schools, churches, and community centers, and to consider how we can make our home and community life contribute in full measure to the building of bouyant health and valiant spirit in all our boys and girls.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 17th day of March, in the year of our Lord nineteen hundred and [SEAL] forty-four, and of the Independence of the United States of America the one hundred and sixty-eighth.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,

Secretary of State.

[F. R. Doc. 44-3928; Filed, March 20, 1944; 11:17 a. m.]

Regulations

TITLE 7—AGRICULTURE

Chapter XI—War Food Administration (Distribution Orders)

[FDO 22-5, Amdt. 2]

PART 1425—CANNED AND PROCESSED FOODS

CANNED CITRUS FRUIT AND CANNED CITRUS FRUIT JUICES

Food Distribution Order No. 22-5, issued by the Director of Food Distribution on November 26, 1943, as amended (8 F.R. 16097, 9 F.R. 2322) is further amended as follows:

1. By deleting from § 1425.7 (b) (3) the provisions thereof and inserting, in lieu thereof, the following:

(3) In lieu of setting aside a quantity of canned grapefruit juice equal to 41 percent of the total of grapefruit juice packed by a canner during the base period, any canner will be deemed to have met the set-aside requirements of this order with regard to canned grapefruit juice if he sets aside all grapefruit juice packed by him and which is in his possession on March 17, 1944, and all grapefruit juice packed by him subsequent to such date, and if the aggregate of such amount is not less than 32 percent of the total quantity of grapefruit juice packed by such person during the base period.

2. By adding to § 1425.7 (b) at the end thereof, the following:

(4) In lieu of setting aside a quantity of canned orange juice equal to 48 percent of the total of orange juice packed by a canner during the base period, any canner will be deemed to have met the set-aside requirements of this order with regard to canned orange juice if he sets aside all orange juice packed by him and which is in his possession on March 17, 1944, and all orange juice packed by him subsequent to such date, and if the aggregate of such amount is not less than 42 percent of the total quantity of orange juice packed by such person during the base period.

(Continued on p. 2971)

CONTENTS

THE PRESIDENT

REGULATIONS AND NOTICES

(Continued on p. 2970)

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

(Continued on next page)

CONTENTS—Continued

3. By deleting from Column B of Table 1 the figures "38" and "42" and inserting, in lieu thereof, the figures "41" and "48," respectively.

This amendment shall become effective at 12:01 a. m., e. w. t., March 17, 1944. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said Food Distribution Order No. 22–5 prior to the effective time of this amendment, all of the provisions of the said Food Distribution Order No. 22–5 in effect prior to the effective time of this amendment shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, appeal, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783; FDO 22, 8 F.R. 2243, 6397)

Issued this 16th day of March 1944.

LEE MARSHALL,
Director of Food Distribution.

[F. R. Doc. 44–3769; Filed, March 17, 1944; 12:43 p. m.]

[FDO 42, Amdt. 4]

PART 1460—FATS AND OILS

RESTRICTIONS ON USE

Food Distribution Order No. 42, as amended (8 F.R. 13970, 9 F.R. 1687), § 1460.1, is amended to read as follows:

§ 1460.1 *Use of fats and oils*—(a) *Definitions.* (1) "Fats and oils" means all the raw, crude, refined, and pressed fats and oils, whether vegetable, animal, fish, or other marine animal, their by-products and derivatives, including foots, grease (lard) oil, sulfonated and similarly processed fats and oils, fatty acids, lard and rendered pork fat, and the fat and oil content of any other product, but not including cocoa butter, butter, wool (grease) fat, essential oils, tall oil, mineral oils, and vitamin bearing oils derived from fish or other marine animal livers or viscera.

(2) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons whether incorporated or not.

(3) "Manufacturer" means any person who uses any fats or oils in the manufacture of any "finished product", and shall include all other persons directly controlling or controlled by such person and all persons under direct or indirect common control with such person. The term shall also include a "soap converter", but shall not include any crusher, renderer, refiner, or other processor except as and to the extent that his operations result in the production of a finished product, or any person who uses fats and oils in the home in the preparation of food for household consumption. A person who merely blends fats and oils shall not be deemed a manufacturer.

(4) "Soap converter" means any person who uses soap made by others as a raw material, and by the addition of other materials, including, but not limited to, silicates, phosphates, abrasives, borax, corn meal, and soda ash, makes a finished product which is sold for detergent uses. The term shall not include those persons who merely add small amounts of color or perfume to the original soap, or persons who merely dissolve paste or other soaps in water to make liquid soaps without adding other non-soap detergent materials.

(5) "Finished product" means any product produced by a manufacturer for sale as his finished product and carried on his books as his finished product; or any product listed under Schedule A hereof produced by a manufacturer for his own consumption, except an intermediate product used by him in the manufacture of another product listed under said Schedule A. However, the term shall not include:

(i) Lard or rendered pork fat;

(ii) Any fat or oil product intended for sale to another manufacturer for further processing in the manufacture of, or for inclusion in, any product listed under Schedule A hereof (excepting an edible product of which fats and oils are not the principal ingredient);

(iii) Any edible product of which fats and oils are not the principal ingredient;

(iv) Any edible product produced by any hotel or restaurant for consumption on the premises;

(v) Any medicinal preparation, other than medicinal soap, or any product used in the manufacture of such a medicinal preparation;

(vi) Any vitamin preparation or any product used in the manufacture of a vitamin preparation;

(vii) Olive oil;

(viii) Poultry fat; or

(ix) Soap intended for sale to soap converters for further processing.

(6) "Crusher" means any person who presses, expels, or extracts oils from any seed, bean, nut, or corn or other oil-bearing materials.

(7) "Principal ingredient" means the largest single ingredient by weight, subject to the qualification that mayonnaise and salad dressing are to be considered products of which fats and oils are not the principal ingredient regardless of the composition thereof.

(8) "Soap" means the water soluble product formed by the saponification or neutralization of fats, oils, rosins, or their fatty acids with organic, sodium or potassium bases; or any detergent composition containing such products, including all types of shaving soap and shaving cream. The term does not include, however, soap used for non-detergent purposes or for the processing of textiles.

(9) "Non-detergent purposes" means uses in which the function of the soap is not to clean, wash, scour, or remove dirt, grit, grease, or any other foreign material from any surface, material, assembly, part or product.

(10) "Package and bar soap" means all bar soap, and all other soap, except abrasive hand soaps, originally packed in unit packages containing less than 25 pounds net.

(11) "Bulk package soap" means any soap except bar soap, and abrasive hand soaps, which is originally packaged in unit packages containing 25 pounds net, or more.

(12) "Abrasive hand soap" means paste and powdered soap products sold regularly for the removal of soil from the human skin and which contain, by weight, on a moisture free basis, not less than 10% or more than 40% anhydrous soap, and not less than 25% abrasive material of an organic or inorganic nature, to facilitate soil removal.

(13) "Foots" means the by-product residue obtained in the refining of any fat or oil, except linseed oil, where such refining is accomplished by treatment of such fat or oil with any alkaline material.

(14) "Washed, recovered linseed oil" means the by-product residue obtained in the refining of linseed oil where such refining is accomplished by treatment of linseed oil with any alkaline material.

(15) "Can" means a can as defined in Conservation Order M–81, as amended (9 F.R. 82).

(16) "Base period" means the calendar years 1940 and 1941.

(17) "Director" means the Director of Food Distribution, War Food Administration.

(b) *Restrictions on manufacture.* (1) No manufacturer, except as hereinafter provided, shall, in any calendar quarter, use or consume fats and oils in any class of use listed in Schedule A below, in a quantity in excess of a quota equal to the percentage specified for such calendar quarter in said Schedule A of his average quarterly use or consumption of fats and oils in such class of use during the corresponding calendar quarters of the base period: *Provided, however,* That any person who manufactured paste water paint, dry casein paint, or dry protein paint, as such in the base period, may, in any calendar quarter, for the sole purpose of manufacturing paint containing not more than one pound of fats and oils per gallon of paint, use a quantity of fats and oils equal to the percentage specified for such calendar quarter in said Schedule A of an amount of fats and oils computed on the basis of one pound of fats and oils for each gallon of his average quarterly production of paste water paint during the corresponding calendar quarters of the base period, and one pound of fats and oils for each eight pounds of his average quarterly production of dry casein or dry protein paint during the corresponding calendar quarters of the base period.

SCHEDULE A

Class of use:	*Permitted percentage*
Manufacture of margarine in any calendar quarter	167
Manufacture of other edible finished products, including shortening, in any calendar quarter	88
Manufacture of package and bar soap in any calendar quarter	90
Manufacture of bulk package soap in any calendar quarter	110
Manufacture of abrasive hand soap in any calendar quarter	150
Manufacture of paints, varnishes, lacquers, and other protective coatings in any calendar quarter except the calendar quarter beginning on January 1, 1944	60
Manufacture of paints, varnishes, lacquers, and other protective coatings in the calendar quarter beginning on January 1, 1944	70
Manufacture of linoleum, oilcloth (for floor coverings), and felt base floor coverings in any calendar quarter except the calendar quarter beginning on January 1, 1944	60
Manufacture of linoleum, oilcloth (for floor coverings), and felt base floor coverings in the calendar quarter beginning on January 1, 1944	70
Manufacture of oilcloth (for all purposes other than floor coverings) and all other coated fabrics in any calendar quarter except the calendar quarter beginning on January 1, 1944	60
Manufacture of oilcloth (for all purposes other than floor coverings) and all other coated fabrics in the calendar quarter beginning on January 1, 1944	70

SCHEDULE A—Continued

Class of use—Continued.	*Permitted percentage*
Manufacture of paint containing not more than one pound of fats and oils per gallon of paint (by a manufacturer of paste water paint, dry casein paint, or dry protein paint, as such, in the base period), in any calendar quarter except the calendar quarter beginning on January 1, 1944	60
Manufacture of paint containing not more than one pound of fats and oils per gallon of paint (by a manufacturer of paste water paint, dry casein paint, or dry protein paint, as such, in the base period), in the calendar quarter beginning on January 1, 1944	70

(2) If any manufacturer does not, in any calendar quarter, use or consume the quantity of fats and oils permitted by paragraph (b) (1) hereof when computed in accordance with the provisions of this order, the unused part of his quota for such quarter (beginning with the second quarter of 1943) may, for the purposes of paragraph (b) (1), be carried forward and used only in the succeeding calendar quarter and then only after the regular quota for such quarter has been used.

(3) For the purpose of determining the quantity of raw "foots" or "washed, recovered linseed oil" which may be used or consumed, use or consumption shall be calculated on the basis of total fatty acid content.

(4) The restrictions on the use or consumption of fats and oils imposed hereby are imposed with respect to the use or consumption of fats and oils in the aggregate, and such restrictions are not to be construed to limit a manufacturer to the use or consumption of the same fat or oil used or consumed by him in the base period.

(5) Nothing in paragraph (b) (1) hereof shall restrict:

(i) The use or consumption of fats and oils, in any calendar quarter, by any manufacturer, who was using fats or oils prior to July 1, 1943, and whose total use or consumption of fats and oils in such calendar quarter in classes of use listed under Schedule A hereof is not more than 10,000 pounds, exclusive of fats and oils used or consumed pursuant to the provisions of paragraphs (b) (5) (ii), (iii), (iv), or (v) hereof; or the use or consumption of fats and oils in any calendar quarter by any manufacturer, whose use of fats and oils did not commence until on or after July 1, 1943, and whose total use or consumption of fats and oils in such calendar quarter in classes of use listed under Schedule A hereof is not more than 1000 pounds, exclusive of fats and oils used or consumed pursuant to paragraphs (b) (5) (ii), (iii), (iv), or (v) hereof.

(ii) The use or consumption of fats and oils in the manufacture of the following products, delivered, or contracted for delivery, to the persons, or agencies, and for the specific purposes, if any, listed below:

(*a*) Any edible product or soap to the Army, Navy, Marine Corps, or Coast Guard of the United States; the Office of Distribution, War Food Administration (including, but not restricted to the Federal Surplus Commodities Corporation); the War Shipping Administration; or the Veterans' Administration;

(*b*) Any edible product or soap to a contract school in accordance with the provisions of Food Distribution Regulation 2, as amended (8 F.R. 13879), or a ship supplier in accordance with the provisions of Food Distribution Regulation 3 (8 F.R. 13880);

(*c*) Any soap to any person for the purpose of using such soap in laundering under contract with the Army, Navy, Marine Corps, or Coast Guard of the United States, the War Shipping Administration, the United States Maritime Commission, a ship operator as defined in said Food Distribution Regulation 3, or a contract school as defined in said Food Distribution Regulation 2, as amended; or,

(*d*) Any finished product to any person for use in the manufacture of any edible product delivered or to be delivered to any of the agencies or persons named in (*a*) or (*b*) of this paragraph (b) (5) (ii):

Provided, however, That although delivery of a product pursuant to this paragraph (b) (5) (ii) may be made to the persons or agencies heretofore named in this paragraph through intermediate distributors, any delivery so made through intermediate distributors; or any delivery, direct or otherwise, made to the persons named in (*c*) or (*d*) of this paragraph (b) (5) (ii), will not cause the use or consumption of fats and oils in the manufacture of the product so delivered, to be exempt from the provisions of paragraph (b) (1) hereof, unless and until a certificate, or certified copy thereof, is issued, endorsed, and delivered to the person claiming such exemption, in connection with such delivery, as follows: The certificate shall state the name of the person making delivery, or to make delivery, of the final product, the name of the manufacturer of the final product, the amount and kind of final product delivered, or to be delivered, and that the person or agency to which delivery has been, or is to be, made has either received the amount of final product covered by the certificate, or has contracted for such delivery. If delivery has been made, or is to be made, to a person pursuant to (*c*) of this paragraph (b) (5) (ii), the certificate shall

also state the purpose for which the final product covered thereby is to be used. The foregoing certificate shall be signed by an authorized officer, or official, of the agency receiving, or to receive, the final product, or if the final product has been received, or is to be received, by a private person, the certificate shall be signed by such person or his authorized agent. The certificate shall be delivered to the person who made, or is to make, delivery, and such person, if he did not, or will not, manufacture the product covered by the certificate, shall deliver it promptly by mail, or otherwise, to the manufacturer of the final product named thereon. Promptly upon receipt of the certificate the manufacturer of the final product named thereon shall execute and sign an endorsement thereon showing the amount of fats and oils used, or to be used, in the manufacture of the amount of final product covered by the certificate. In addition thereto, if such person used, or is to use, any finished product delivered, or to be delivered, to him pursuant to (*d*) of this paragraph (b) (5) (ii), in the manufacture of the final product covered by the certificate, he shall set forth in the endorsement the name of the person so supplying, or to supply, him with such finished product and the amount and kind of the finished product delivered, or to be delivered, by such supplier for such purpose. The manufacturer of the final product shall then make a copy of the certificate and endorsement thereon, certified by him to be true and correct, and deliver such copy promptly, by mail, or otherwise, to such supplier. However, the manufacturer of the final product may, in making the copy for any particular supplier, delete the data concerning suppliers other than the supplier to whom the copy is to be delivered, and insert in lieu thereof the following: "Data concerning other suppliers has been deleted." *It is further provided,* That the use or consumption of fats and oils in the manufacture of a finished product to be delivered directly to any agency or person named in (*a*) or (*b*), of this paragraph (b) (5) (ii), shall not be exempt from the provisions of (b) (1) hereof, unless and until the person claiming such exemption shall have entered into a contract with such agency or person to deliver such finished product.

(iii) The use or consumption of fats and oils in the manufacture of all protective coatings, coated fabrics, linoleum, oilcloth, and felt base floor coverings, delivered or to be delivered to, or used on or incorporated in material and equipment delivered or to be delivered to, the Army, Navy, Marine Corps, or Coast Guard of the United States, the United States Maritime Commission, or to the War Shipping Administration, or delivered, or to be delivered, pursuant to the Act of March 11, 1941 (Lend-Lease Act), or to be used on a vessel operating under a warrant issued by the United States Maritime Commission or the War Shipping Administration, pursuant to the Act of July 14, 1941 (55 Stat. 591): *Provided, however,* That no fats or oils used or consumed pursuant to the terms of this paragraph (b) (5) (iii) by any manufacturer shall be exempt from such manufacturer's quota under the terms of this order unless, on or before the 15th day of the month succeeding the month in which the fats and oils were so used, he shall mail to the Director a report of such use on Form FDA–523, as amended, or such other forms as the Director may prescribe.

(iv) The use or consumption of fats and oils in the manufacture of edible finished products and soaps to be exported to the Dominion of Canada where such Dominion has granted a license for the importation of such products, or to any other country pursuant to an export license issued by the Foreign Economic Administration.

(v) The use or consumption of fats and oils in the manufacture of protective coatings which are:

(*a*) Applied to any item of new farm machinery or equipment which is listed in Schedule A of Limitation Order L–257, as amended (8 F.R. 15568), if such protective coatings are applied by the manufacturer of such machinery or equipment, or,

(*b*) Used as, or in the manufacture of, cans, container closures, closure liners, or linings and liners for cans, if such cans, container closures, closure liners, or linings and liners for cans are used only for the packaging of food, drugs, pharmaceuticals and beverages.

(6) A manufacturer's use or consumption of fats and oils in accordance with the provisions of paragraphs (b) (5) (ii), (iii), (iv), or (v), hereof, shall not be charged against his quota under paragraph (b) (1) hereof, and any fats or oils used or consumed by a manufacturer in the base period for any purpose set forth in paragraphs (b) (5) (ii), (iii), or (v) hereof, or, in the manufacture of edible finished products or soap for exportation to a foreign country shall be excluded in determining his quota under paragraph (b) (1) hereof.

(7) A person who acquires all the manufacturing facilities of another person in a particular class of use shall thereby become entitled to the quota of such other person in such class of use, whether or not he continues to operate such facilities in whole or in part: *Provided, however,* That he shall within 30 days following such acquisition inform the Director of the facilities acquired, their location, whether or not operation will be continued in the same or another location, and the amount of quota which he claims to have acquired in each class of use.

(8) Fats and oils owned by one person, which are processed by another person, shall be charged against the quota of the owner and not the processor: *Provided, however,* That the title to the product resulting from the processing shall remain in the owner of the fats and oils and such owner shall market the product and shall invoice and collect for such product through his own organization, and the processor shall not buy directly or indirectly any product so produced. Otherwise, such fats and oils shall be chargeable against the quota of the processor.

(9) Notwithstanding the other provisions of this order, any manufacturer may, for the purpose of determining his permissible use of fats and oils in the manufacture, during any calendar quarter, of a particular class of soap set forth in Schedule A hereof, divert a quantity of fats and oils from the average quarterly amount of fats and oils used by him in the corresponding calendar quarters of the base period in the manufacture of another class of soap listed in said Schedule A, to the average quarterly amount of fats and oils used by him in the corresponding quarters of the base period in the manufacture of the class of soap with respect to which the determination is being made: *Provided,* That the total amount so diverted from all classes of soap to other classes of soap, for the purpose of determining the quotas applicable to a particular calendar quarter, shall not exceed 250,000 pounds, and his total permitted use of fats and oils for all classes of soap manufacture in any calendar quarter computed after such diversion or diversions shall not exceed (but may be less than) his total permitted use of fats and oils in the manufacture of soap of all classes when

computed prior to such diversion or diversions.

(10) Notwithstanding the other provisions of this order, only 50% of the washed, recovered linseed oil used or consumed by a manufacturer in any calendar quarter in a class of use listed in Schedule A hereof, shall be charged against his quota hereunder for such class of use in such quarter, and only 50% of the washed, recovered linseed oil used or consumed by a manufacturer, in any calendar quarter, in classes of use listed in Schedule A hereof, shall be counted in determining whether the provisions of paragraph (b) (5) (i) hereof, are applicable to such manufacturer in such quarter.

(c) *Existing contracts.* The restrictions of this order shall be observed without regard to existing contracts or any rights accrued or payments made thereunder.

(d) *Records and reports.* (1) Each manufacturer, other than a soap converter, who, in any calendar quarter, uses or consumes more than a total of 6000 pounds of fats and oils, shall properly fill out and file with the Bureau of the Census, Washington 25, D. C., each of the following reports at the time set forth below:

(i) Bureau of the Census Form BM–1, or such other form or forms as may be prescribed by the Director, for each month of such calendar quarter, on or before the fifteenth day of the month succeeding such month; and

(ii) Bureau of the Census Form BM–2 or such other form or forms as may be prescribed by the Director, for such calendar quarter, on or before the fifteenth day of the second month of the succeeding calendar quarter.

In filling out the foregoing forms the specific instructions contained in any other Food Distribution Order with respect to a particular fat and oil shall be followed. Nothing in this paragraph (d) (1) shall be construed as requiring any person to file more than one form BM–1 for any month, or more than one form BM–2 for any calendar quarter.

(2) The Director shall be entitled to obtain such information from, and require such reports and keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(3) Every person subject to this order, shall for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in fats and oils and keep all certificates and endorsements or copies thereof required by this order to support any claim for quota exemption made by him, including all certificates received by him pursuant to the provisions of said Food Distribution Regulation 2, as amended, and said Food Distribution Regulation 3. All statements contained in such certificates or endorsements shall be deemed representations to an agency of the United States.

(4) The record-keeping and reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) *Audits and inspection.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of fats and oils of any person, and to make such investigations, as may be necessary or appropriate, in his discretion to the enforcement or administration of the provisions of this order.

(f) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief in writing with the Director, addressed as follows: Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. FDO 42. Such petition shall set forth all pertinent facts and the nature of the relief sought. The Administrator of this order shall then act upon the petition. In the event that the petitioner is dissatisfied with the action taken by the Administrator of this order, he may request a review of such action by the Director whose decision with respect to the relief sought shall be final.

(g) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using fats and oils, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(h) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, or otherwise provided herein, be addressed to the Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref. FDO 42.

(i) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate any or all of the authority vested in him by this order to any employee of the United States Department of Agriculture.

(j) *Territorial extent.* This order shall apply only in the forty-eight States of the United States and the District of Columbia.

(k) *Effect of other orders.* Insofar as any other order of the Secretary of Agriculture, the War Food Administrator, or the Director, heretofore or hereafter issued, limits or curtails to a greater extent than herein provided the use, acquisition, or disposition of any fat or oil, the limitations of such other order shall control.

(l) *Effective date.* This amendment shall become effective at 12:01 a. m., e. w. t., March 17, 1944. However, with respect to violations of Food Distribution Order No. 42, as amended, or rights accrued, or liabilities incurred thereunder, prior to said date, said Food Distribution Order No. 42, as amended, shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 16th day of March 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 44-3821; Filed, March 17, 1944; 4:27 p. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter VII—Personnel

PART 78—DECORATIONS, MEDALS, RIBBONS, AND SIMILAR DEVICES

GOOD CONDUCT MEDAL

Section 78.37 (8 FR 6398), pertaining to supply and manufacture of the Good Conduct Medal, is hereby rescinded.

§ 78.37 *Supply.* [Rescinded] (Executive Order 8809, as amended by Executive Order 9323) [Par. 7, AR 600–68, 4 May 1943, as amended by Sec. III, W. D. Cir. 103, 11 March 1944]

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 44–3827; Filed, March 18, 1944; 10:37 a. m.]

Chapter VIII—Procurement and Disposal of Equipment and Supplies

[Procurement Regs. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, and 16]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments and additions to the regulations contained in Parts 81, 83, and 88 are hereby prescribed. These regulations are also contained in War Department Procurement Regulations dated 5 September 1942 (7 F.R. 8082) as amended by Change 31, 8 March 1944,[1] the particular regulations amended being Nos. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, and 16.

In section numbers the figures to the right of the decimal point correspond with the respective paragraph numbers in the procurement regulations.

AUTHORITY: Section 5a, National Defense Act, as amended, 41 Stat. 764, 54 Stat. 1225; 10 U.S.C. 1193–1195, and the First War Powers Act 1941, 55 Stat. 838; 50 U.S.C. Sup. 601–622.

[Procurement Reg. 2]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

GENERAL PURCHASE POLICIES

In § 81.232 paragraph (e) is amended to set forth procedure and policy in converting existing cost-plus-a-fixed-fee contracts to a fixed-price basis.

§ 81.232 *Cost-plus-a-fixed-fee contracts.* * * *

(e) *Existing contracts.* (1) Whenever feasible, existing cost-plus-a-fixed-fee contracts will be amended to convert them or provide for converting them to a fixed price basis as soon as practicable. Special effort to obtain such conversions will be made because the change offers an opportunity to obtain more efficient production or appears otherwise to be of special advantage to the Government. Ordinarily, such conversion will take place by supplemental agreement substituting for the cost-plus-a-fixed-fee contract a fixed price contract covering the whole performance of the contract, effective retroactively to the beginning of the performance. Such a retroactive conversion will assist in avoiding complicated and time consuming allocations of costs, inventory and preparatory expense. However, in appropriate cases conversions may be made effective from some stated point in the performance of the cost-plus-a-fixed-fee contract.

(2) One purpose of the War Department in converting cost-plus-a-fixed-fee contracts to a fixed price basis is to develop lower prices and costs and greater efficiency in the utilization of manpower and capacity, not only under the contract which is being converted but also under future contracts for similar products. The policy of pressing for conversions is based upon the premise that a fixed price contract gives the contractor maximum incentive to achieve more efficient operations during the balance of the contract. Consequently, such conversions will be made only where a substantial portion of the contract remains to be performed, unless the prior approval of the Director, Purchases Division, Headquarters, Army Service Forces, has been obtained in the particular case.

(3) The circumstances of such conversions will obviously vary and accordingly the considerations to be taken into account in determining a fixed price at which the contract is to be performed cannot be prescribed in specific terms applicable to each case. Essentially, however, the problem of converting the cost-plus-a-fixed-fee contract to a fixed price basis is no different from the original fixing of price and terms under any fixed price contract and Government representatives, in determining a fixed price, will be expected to give weight to the general factors relating to pricing ordinarily employed in connection with a fixed price contract as discussed in Army Service Forces Manual M–601, "Pricing in War Contracts."

(4) Although the probability is that a fixed price, properly determined, will result in lower expenditure by the Government than on the cost-plus-a-fixed-fee basis, in some instances it may be to the interest of the Government, to press for the conversion of cost-plus-a-fixed-fee contracts for various reasons other than expected monetary saving. Indeed, in view of the present shortages of manpower and of some materials, in some cases the amount of the proposed fixed price may not be the principal factor to be taken into account.

(5) Among the considerations that obviously must be given weight in determining the fixed price arrangement in connection with a conversion are the following:

(i) In cases where the supplemental agreement provides one fixed price for all the deliveries under the contract, retroactive to the beginning of the contract, the analysis of the fixed price, should include a consideration (together with all other relevant factors) of the estimated average costs over the life of the contract, giving due weight to past costs and to estimated future costs. In determining estimated average costs full weight will be given to the decline in costs normally to be expected as production experience is gained (see subdivision (vi) of this subparagraph).

(ii) In cases where the supplemental agreement provides a schedule of different prices for various sections or periods of deliveries, the objective should be to include in the price set for any past period an amount not in excess of a reasonable estimate of the allowable costs and fee properly to be allocated to the units completed or services rendered in that past period. It is recognized that a precise allocation of costs and fee in this connection may not be practicable without an unreasonable amount of accounting auditing which is not necessary in view of the conversion to a fixed price basis. Accordingly, the objective above mentioned must be attained in many cases on the basis of reasonable approximations and estimates and no physical inventory or audit need be made for the purpose of achieving a precise allocation.

(iii) Any schedule contained in the supplemental agreement providing for different fixed prices for various sections or periods of deliveries should give due consideration to the variations in cost which are expected to take place during the life of the contract. Such schedules should also reflect the decline in costs normally to be anticipated as experience in production is gained. If, in fixing such a schedule of prices, starting and learning costs are allocated to the earlier periods of the contract, such costs obviously should not be taken into account in fixing the prices which the schedule provides will be paid for later periods of production.

(iv) The prices set under any supplemental agreement for converting to a fixed price basis should be fair and reasonable in the light of all the circumstances. It must be borne in mind that prior to the conversion the contractor's costs in substance have been guaranteed by the Government and that under the fixed price contract the contractor assumes additional risks which may properly be given consideration in fixing the price under the converted contract. Any weight giver to such additional risks should not be greater than is warranted by the additional risks in fact assumed by the contractor. Also, full recognition should be given to the probability that operations on a fixed price basis will be conducted on a more efficient basis, with consequent lower costs to the contractor. For example, most manufacturers recognize that their labor may become more efficient under a fixed price contract than when operating under a cost-plus-a-fixed-fee contract.

(v) Various contract provisions, frequently included in fixed price contracts, tend to reduce the additional risks assumed by the contractor upon converting to a fixed price basis as, for example, where a periodic pricing article or other

[1] For previous changes see 7 F.R. 9268, 10184, 10906; 8 F.R. 3339, 3486, 5210, 6576, 7526, 8629, 8918, 9908, 11609, 12043, 13083, 13791, 14512, 16009, 16100, 17464; 9 F.R. 1344.

price adjustment provision is used. In determining the fixed price, due consideration will be given to the effect of any such contract provisions, if included in the converted contract, as well as to the various pricing factors mentioned at page 7 of Army Service Forces Manual 601, "Pricing in War Contracts."

(vi) Assistance should be obtained from such evidence as may be available as to the historical costs on the cost-plus-a-fixed-fee contract prior to the date of the proposed conversion. However, such costs are frequently misleading (*a*) because of distortion by high starting and learning expenses and, in any event, are difficult to translate into unit costs without careful analysis, and (*b*) in view of the general tendency of costs to decline sharply with the greater efficiency obtained in the later stages of a contract. On this account greater weight should be given to the historical cost experience, most recent at the time of the conversion, than to the costs for earlier periods of the contract. In any instance, historical costs should be regarded only as a starting point in predicting the future costs under the contract and in the problem of price analysis.

(vii) In all cases where such data can be obtained, consideration should be given to prices paid to the same contractor and to others for comparable supplies under other fixed price contracts. Such data frequently provide a safer basis for price analysis than the historical costs of the particular contractor.

(viii) Where conversions are to be effective only with respect to deliveries after a stated date, care should be taken to fix the price on deliveries after that date on a basis which will not tend to duplicate payments for work in process the cost of which has been or will be reimbursed on the cost-plus-a-fixed-fee basis. Attention is directed to the fact that this type of conversion will ordinarily require fixing of a price upon materials on hand at the time of the conversion for transfer to the contractor.

(6) To ensure adequate analysis of such conversions the procedure set out in § 81.306 (e) will be followed.

(7) Where a conversion takes place by an agreement fixing a price retroactive to the beginning of the performance, action taken by the contractor in conformity with the cost-plus-a-fixed-fee contract as in force prior to the conversion (and proper when taken) need not be revised in the supplemental agreement to make it consistent with the fixed price basis; as, for example, purchases and dispositions of property for Government account, shipments of property on Government bill of lading, etc. All such actions, however, will be given consideration in determining the appropriate fixed prices to be set.

[Procurement Reg. 3]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

CONTRACTS

In § 81.304 paragraph (a) is amended by the addition of a contract form for Office of Chief Signal Officer.

§ 81.304 *Definitions*—(a) *Standard forms of contract.* * * *

Office of the Chief Signal Officer: * * *

Contract for Maintenance in Connection with Army-Owned Teletypewriter Equipment

* * * * * * *

In § 81.306 paragraph (c) is amended and paragraph (e) is added as follows:

§ 81.306 *Making and approval of contracts, supplemental agreements and change orders.* * * *

(c) *Authority of technical services to make supplemental agreements and change orders.* Except as provided in paragraph (e) of this section and in §§ 81.308a and 81.308g a supplemental agreement to change order modifying a contract (other than an Architect-Engineer, Management or similar contract) may be made or issued by the technical services concerned without approval of higher authority (provided that approval of the award has been obtained if such approval is required under the provisions of § 81.305 (b) and the supplemental agreement, or change order substantially embodies the award as approved), if:

(1) The technical service had authority to make the original contract pursuant to paragraph (a) of this section, or the technical service did not have such authority but obtained approval pursuant to paragraph (d) of this section; and

(2) The provisions and features of the supplemental agreement or change order are themselves such that the technical service would have authority to include them in an original contract pursuant to paragraph (a) of this section.

Changes in Architect-Engineer, Management or similar contracts may also be made by the technical service concerned: *Provided,* That the requirements of subparagraphs (1) and (2) above are satisfied: *And provided,* That the change being currently made in the construction contract to which the Architect-Engineer, Management or similar contract relates does not necessitate approval. Supplemental agreements converting cost-plus-a-fixed-fee contracts to a fixed price basis will be governed by the provisions of paragraph (e) of this section.

* * * * * * *

(e) *Supplemental agreements converting cost-plus-a-fixed-fee contracts to a fixed price basis.* (1) In all cases, supplemental agreements converting cost-plus-a-fixed-fee contracts to a fixed price basis will be made subject to the approval of the Director, Purchases Division, Headquarters, Army Service Forces. In the negotiation of all such supplemental agreements the general policies discussed in § 81.232 (e) should be considered so far as relevant. In submitting such supplemental agreements for the approval of the Director, Purchases Division, Headquarters, Army Service Forces, in addition to any information required by § 81.305 (b) or other instructions as to contract clearance, a written statement should be presented (i) analyzing the price data and other similar information, if any, submitted by the contractor, (ii) describing the investigations of these data and other relevant facts which have been made by the War Department representatives, and (iii) setting forth the principal considerations relevant to the conversion of the particular contract to a fixed price basis on the terms recommended. In the case of a partial conversion (not retroactive to the beginning of performance), the statement will indicate what steps have been taken to exclude from the proposed fixed price starting load costs for which the contractor has already been reimbursed under the cost-plus-a-fixed-fee contract. The records of the cost analyses and other investigations made in connection with the conversion will be preserved in the procurement office charged with the conversion negotiations or in the office of the chief of the technical service concerned.

(2) Each supplemental agreement providing for such a conversion will be made only after the contracting officer has satisfied himself that the facts warrant substantially the following recitals which will be included with appropriate modifications to meet the needs of each particular case in each supplemental agreement:

Whereas it is the policy of the War Department to convert cost-plus-a-fixed-fee contracts to a fixed price basis to the greatest extent feasible, and

Whereas the conversion of this contract from a cost-plus-a-fixed-fee contract to a fixed price basis is designed to develop greater efficiency in the use of manpower, materials and capacity by providing the contractor with an incentive to improve its operations, and

Whereas such improvements in operating efficiency tend to develop lower prices and costs, and

Whereas such conversion will tend to reduce the expense and manpower necessary for administrative work, both for the Government and for the contractor, and

Whereas after consideration of all factors deemed relevant and after a reasonable price analysis the fixed price herein provided has been found to be reasonable under all the circumstances, and

Whereas it has been determined administratively that it is to the advantage of the Government and that it will facilitate the prosecution of the war to convert this contract to a fixed price basis by this supplemental agreement entered into pursuant to the First War Powers Act, 1941, and Executive Order No. 9001.

(3) The supplemental agreement covering the conversion will be distributed as provided in §§ 81.303 (e) and 81.315 et seq. The statements and other data referred to in subparagraph (1) of this paragraph need not be submitted with the supplemental agreement to the General Accounting Office or to the finance officer, but will be retained as provided in subparagraph (1) available for inspection.

(4) It has been determined that the execution of supplemental agreements effecting such conversions of cost-plus-a-fixed-fee contracts to a fixed price basis will facilitate the prosecution of the war, when the contracting officer has satisfied himself as provided in subparagraph (2) of this paragraph and when the supplemental agreement has been approved as provided in subparagraph (1) of this paragraph.

In § 81.308b (a) subparagraphs (2) and (3) are redesignated (3) and (4)

and a new subparagraph (2) is added as follows:

§ 81.308b *Correction of mistakes.* (a) * * *

(2) At any time prior to the making of final payment under a termination settlement agreement, the chief of the technical service concerned may correct mistakes, errors and ambiguities in such termination settlement agreement when such correction will result in benefit to the Government *or* when the change involved does not result in an adjustment in excess of $50,000. The authority conferred by this subparagraph (2) is not subject to any of the limitations created by subparagraph (1) of this paragraph or by § 81.308f.

(3) In any other case where the chief of a technical service determines that it will facilitate the prosecution of the war to execute a supplemental agreement to correct a mistake, he will first obtain approval of the Director, Purchases Division, Headquarters, Army Service Forces.

(4) Approval of the Director, Purchases Division, will not be required in the case of any supplemental agreement correcting a mistake, under which the Government receives adequate new legal consideration, regardless of whether the supplemental agreement involves an adjustment amounting to $50,000 or more, and regardless of the time of execution of such supplemental agreement.

* * * * *

Section 81.308f is amended as follows:

§ 81.308f *Amendment of contracts after final administrative determination of amount due.* The authority granted to the chiefs of the technical services pursuant to §§ 81.308b (a) (1), 81.308e (a), 81.379 and 81.380 will not be exercised after the contracting officer has administratively determined the final amount due under the contract by communicating his determination to the contractor or by the approval of a final voucher therefor, except that if the contracting officer's determination is, by the terms of the contract, subject to review by the Secretary of War, or his duly authorized representative, such authority may be exercised at any time prior to final action on such review if the contractor perfects his right to such review. Attention is directed to the provisions of § 81.308g.

In § 81.318b (e) subparagraph (1) (ii) is amended to include a symbol for Army Specialized Training Branch.

§ 81.318b *Contract procedure.* * * *

(e) *Numbering of service command contracts.*

(1) * * *

(ii) * * *

AST—Army Specialized Training Branch.

* * * * *

In § 81.324 paragraph (f) is deleted.

§ 81.324 *Termination for convenience of the Government.* * * *

(f) [Deleted]

Section 81.325 is amended as follows:

§ 81.325 *Anti-discrimination clause.* (a) Every contract, regardless of subject matter or amount, will contain (except as may be otherwise specifically permitted in Interpretations of Executive Order No. 9346, hereinafter referred to) the following clause without deviation:

Anti-discrimination. (a) The Contractor, in performing the work required by this contract, shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin.

(b) The Contractor agrees that the provision of paragraph (a) above will also be inserted in all of its subcontracts. For the purpose of this article, a subcontract is defined as any contract entered into by the contractor with any individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, for a specific part of the work to be performed in connection with the supplies or services furnished under this contract; *Provided, however,* That a contract for the furnishing of standard or commercial articles or raw material shall not be considered as a contract.

(b) The contract clause set fourth in paragraph (a) above is required under the provision of Executive Order No. 9346 issued under date of 27 May 1943. Such Executive Order is set forth in § 81.994. Interpretations of Executive Order No. 9346 are found in § 81.994a.

(c) The contract clause set forth in paragraph (a) above is required, under the provisions of Executive Order No. 9346, to be included "in all contracts hereafter negotiated or renegotiated * * *". The inclusion of the word "renegotiated" has been interpreted as imposing the requirements set forth in paragraphs (d) and (e) of this section.

(d) Whenever the terms of a contract or contracts are to be modified by the execution of a supplemental agreement, and the contract or contracts to be modified do not contain a clause identical in wording with that set forth in paragraph (a) of this section, such supplemental agreement will provide that the contract or contracts are modified to include such a clause.

(e) Normally the provisions of paragraph (c) above will not be applicable to renegotiation agreements executed pursuant to the Renegotiation Act referred to in Procurement Regulation No. 12. If, however, the renegotiation agreement expressly purports to modify the terms of specified existing contracts with respect to future deliveries, the provisions of paragraph (c) will be applicable. Likewise, if the renegotiation agreement is to be followed by a supplemental agreement or agreements, modifying, with respect to future deliveries, the terms of existing contracts, such supplemental agreement or agreements will provide for the inclusion, in the contracts modified thereby, of the clause set forth in paragraph (a) of this section.

(f) When a prime contract is amended in accordance with paragraphs (c) or (d) above, it is not necessary that the existing subcontracts be correspondingly modified. However, if the subcontracts are subsequently amended for any other reason the anti-discrimination clause contained therein should be amended to conform to the wording of paragraph (a) of the clause set forth in paragraph (a) of this section. To make this clear, there may be inserted in the supplemental agreement which amends the prime contract a statement substantially as follows:

The amendment made by this section — shall be effective as of the date of approval of this supplemental agreement and shall not be deemed to require amendment of the anti-discrimination provisions contained in any subcontract theretofore entered into unless such subcontract is subsequently modified in some other respect.

Section 81.332 is amended as follows:

§ 81.332 *Government-owned facilities clause.* The following article is prescribed for inclusion in fixed or unit price contracts under which the contractor is to acquire or manufacture facilities for the account of the Government, or the Government is to furnish facilities to the contractor, for use in connection with the contractor's work under the contract:

Government-owned facilities. (A) In connection with its work under this contract, the contractor shall, within the shortest practicable time, acquire or manufacture for the Government's account the facilities listed in Schedule "A" attached hereto, the estimated costs of which are therein stated. (With the prior written approval of the contracting officer as to their character and estimated costs, the contractor may substitute facilities similar to those listed in Schedule "A", in which event said Schedule will be modified accordingly.) Such facilities shall be installed by the contractor in its plant or plants, or, if approved in writing by the contracting officer, in the plants of subcontractors. The contractor shall insert provisions in all subcontracts under which such facilities are furnished to the subcontractors whereby there will be made applicable to the Government and the subcontractors substantially the same rights and obligations in respect to such facilities as are made applicable to the Government and the contractor under this Article.

(B) Upon inspection and acceptance of the facilities by the contracting officer, and upon the contractor's furnishing satisfactory evidence that it has made payment or incurred the costs as the case may be, the Government shall reimburse the contractor for the actual costs of Schedule "A" facilities, approved by the contracting officer. The term "actual costs", as used in this Article, means the following:

(1) For facilities procured by the contractor from sources other than its own manufacture:

(a) The net invoice price to it of the facilities;

(b) The costs of transportation, *Provided,* That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (1) (a) hereof includes the costs of transportation;

(2) For facilities manufactured by the contractor:

(a) The net invoice price to it of all direct materials required in manufacture;

(b) The costs of transportation, *Provided,* That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (2) (a) hereof includes the costs of transportation;

(c) The costs to it of all direct labor required in manufacture;

(d) An amount equal to ____[1] per cent of item (2) (c) hereof as an allowance for all overhead and administrative expenses. The contractor represents, based on experience,

[1] Insert a number or the word "no".

that this amount does not include any element of profit, and represents no more than actual costs allocable to manufacture. The contractor shall install all Schedule "A" facilities at no expense to the Government in addition to the contract price.[2]

(C) In the event the contracting officer shall determine, at time prior to installation of any item of Schedule "A" facilities, that such item is not reasonably necessary for the performance of this contract, or any other contract for the performance of which the use of that item has been authorized pursuant to paragraph (E) (2), within the time allowed for such performance, he may by written order exercise one of the following options with respect to that item:

(1) If the contractor has made no binding commitment and incurred no expense therefor of a kind reimbursable hereunder as an actual cost: The contracting officer may eliminate the item from Schedule "A" and the Government shall be relieved of any liability therefor.

(2) If the contractor has made a binding commitment or incurred expense therefor of a kind reimbursable hereunder as an actual cost: The contracting officer may direct the contractor to stop all further work and the making of all further commitments thereon and eliminate the item for Schedule "A". In that event the contractor and the contracting officer will attempt to agree on an amount which will reasonably compensate the contractor for the actual cost incurred by him with regard to such eliminated item. If no such agreement is reached within thirty (30) days after the date of elimination (or within such longer period as may at any time be mutually agreed upon), the contractor will be paid an amount, if any, which together with all sums previously paid by the Government on account of the item, shall be sufficient to reimburse the contractor for expenses paid and the settlement of any obligation incurred by the contractor thereon. In lieu of reimbursing the contractor for the settlement of obligations, the Government, in the discretion of the contracting officer, may assume such obligations or any of them. In no event shall the aggregate of reimbursement on account of the item (and of all payments previously made) together with the amount of any obligations assumed, exceed the actual costs, as herein defined, expended or incurred thereon up to the time of such elimination. The contracting officer may permit the contractor to sell or retain at prices or on terms agreed to by the Government any materials, supplies, or work in process, and the proceeds of such sale, or such agreed prices, shall be paid or credited to the Government in such manner as the contracting officer may direct. Upon payment to the contractor pursuant to this subparagraph (2), title to all materials, supplies, work in process and other things for which payment is made (except such property as may be sold or retained as above provided) will vest in the Government (if title thereto has not already vested in the Government). The Government will also become entitled to any rights under any commitment which it may assume, or for the settlement of which it shall have reimbursed the contractor.

(3) The contracting officer may direct the diversion of the item, when it shall have been acquired or its manufacture shall have been completed, to the Government or to any person designated by the contracting officer. In that event the Government shall reimburse the contractor for the actual costs of the item in accordance with the provisions of paragraph (B) hereof, with appropriate adjustment in the amount of reimbursable transportation costs. Upon diversion, the item will be eliminated from Schedule "A". The determination of the contracting officer that an item of Schedule "A" facilities is not reasonably necessary for the performance of this contract, or any other contract for the performance of which the use of that item has been authorized pursuant to paragraph (E) (2), within the time authorized for such performance, is subject to written appeal by the contractor within ten (10) days to _____ or his duly
(Chief of the Technical Service)
authorized representative, whose decision thereon shall be final and conclusive upon the parties hereto. Pending this decision, the contracting officer shall not exercise any of the above options.

(D) Except with the prior written approval of the contracting officer for each such purchase, the contractor will not purchase any Schedule "A" facilities in which it had any property interest at any time after the commencement of negotiations for this contract.

(E) (1) Title to each item of Schedule "A" facilities shall vest in the Government immediately upon inspection and acceptance thereof by the contracting officer, or at such earlier time as the contracting officer may designate in writing. Such facilities shall be deemed personal property although they may be affixed to realty.

(2) The Government hereby grants to the contractor the right to use Schedule "A" facilities, without the payment of rental therefor, in connection with its work under this contract, and, subject to the written approval of the contracting officer and upon such terms as he may prescribe, in connection with any other work for which the Government and the contractor may heretofore have contracted, or may hereafter contract. (Where the Government, pursuant to this paragraph (B) (2), has granted to the contractor the right to use Schedule "A" facilities in connection with its work on any contract other than the contract of which this Article is a part, the contractor shall at any time, upon the request of the contracting officer, enter into suitable amendments of this Article or suitable separate agreements of lease of the facilities evidencing the terms upon which the facilities are then held.)

(F) (1) The contractor shall not be liable for loss or destruction of or damage to Schedule "A" facilities title to which has vested in the Government (a) caused by any peril while the facilities are in transit off the contractor's premises, or (b) caused by any of the following perils while the facilities are on the contractor's or subcontractor's or other premises or by removal therefrom because of any of the following perils:

Fire; lightning; windstorm, cyclone, tornado, hail; explosion, riot, riot attending a strike, civil commotion; vandalism and malicious mischief; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the contractor or any agent or employee of the contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of rivers or streams; enemy attack or any action taken by the military, naval or air forces of the United States in resisting enemy attack.

The perils as set forth in (a) and (b) above are hereinafter called "excepted perils".

(2) The contractor represents that it is not maintaining and agrees that it will not hereafter maintain insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to Schedule "A" facilities caused by any excepted peril, and represents that it is not including and agrees that it will not hereafter include in any price to the Government any charge or reserve for such insurance.

(3) Upon the happening of loss or destruction of or damage to Schedule "A" facilities caused by an excepted peril, the contractor shall communicate with the contracting officer and with the Loss and Salvage Organization now or hereafter designated by the contracting officer and, with the assistance of that organization employed by the contractor to perform services in accordance with instructions or regulations of the Government (unless the contracting officer directs that no such organization be employed), shall take all reasonable steps to protect the facilities from further damage, separate the damaged and undamaged facilities, put all the facilities in the best possible order, and furnish to the contracting officer a statement of: (a) the lost, destroyed and damaged facilities, (b) the time and origin of the loss, destruction or damage, (c) all known interests in commingled property of which the facilities are a part, and (d) the insurance, if any, covering any part of an interest in such commingled property. *If and as directed by the contracting officer, the contractor shall make repairs and renovations of the damaged facilities.*[3] The contractor shall be reimbursed the expenditures made by it in performing its obligations under this subparagraph (3) (including charges made to the contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed direct), as approved by the contracting officer and set forth in a Supplemental Agreement.

(4) With the approval of the contracting officer after loss or destruction of or damage to Schedule "A" facilities, and subject to such conditions and limitations as may be imposed by the contracting officer, the contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of facilities which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the contractor, that separation is impracticable.

(5) Except to the extent of any loss or destruction of or damage to Schedule "A" facilities for which the contractor is relieved of liability under the foregoing provisions of this paragraph (F), and except for reasonable wear and tear or depreciation, the facilities (other than facilities permitted to be sold) shall be returned by the contractor to the Government, or delivered by the contractor to any designee of the Government (at the

[2] If costs of installation are to be reimbursed to the contractor, delete this sentence and substitute the following:

(3) For the installation of facilities acquired or manufactured hereunder, when effected by the servants, agents or employees of the contractor:

(a) The net invoice price to it of all direct materials required for installation;

(b) The costs of transportation, *Provided*, That no costs of transportation shall be separately reimbursed when the invoice price reimbursed under (3) (a) hereof includes the costs of transportation;

(c) The costs to it of all direct labor required for installation;

(d) An amount equal to ____ [insert a number or the word "no"] per cent of item (3) (c) hereof as an allowance for overhead and administrative expenses. The contractor represents, based on experience, that this amount does not include any element of profit, and represents no more than actual costs allocable to installation.

(4) For the installation of facilities acquired or manufactured hereunder, when effected by persons other than the servants, agents or employees of the contractor:

(a) The net invoice price to it of the installation.

[3] Italicized language may be omitted in appropriate cases.

time elsewhere in this Article provided) in as good condition as when received by the contractor in connection with this contract. In aid of its obligation so to return the facilities, the contractor shall, at its own expense, maintain a program for the proper use, care and maintenance of the facilities, as well as a property control and accounting system consistent with good business practice, and make repairs and replacements.

(6) In the event the contractor is indemnified, reinbursed or compensated for any loss or destruction of or damage to Schedule "A" facilities caused by an excepted peril, it shall equitably reimburse the Government. The contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the contracting officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(7) Whenever any item of Schedule "A" facilities has become unserviceable (whether under circumstances which do or which do not render the contractor liable hereunder), the contractor shall notify the contracting officer, and it may then be required by the contracting officer to dismantle and prepare the item for shipment at no expense to the Government in addition to the contract price, whereupon the item shall be removed promptly by the Government at the Government's expense.

(G) Each item of Schedule "A" facilities shall be suitably marked with an identifying mark or symbol, indicating that such item is the property of the Government. Upon completion of the installation of such facilities, the contractor shall submit to the contracting officer a detailed inventory list including a description of the identifying mark or symbol on each item.

(H) The Government shall not be responsible for damages to property of the contractor or for personal injuries to the contractor's officers, agents, servants or employees, or other persons on the premises as invitees or licensees of the contractor, arising from or incident to the use of Schedule "A" facilities, and the contractor shall save the Government harmless from any and all such claims: *Provided,* That nothing in this paragraph shall be deemed to affect any liability of the Government to its own employees.

(I) The Government shall at all times have access to the premises wherein any Schedule "A" facilities are located.

(J) Except as otherwise in this Article specifically provided, the contractor shall not remove or otherwise part with the possession of any Schedule "A" facilities. The contractor shall not pledge or assign, or transfer or purport to transfer title to any of such facilities in any manner to any third person, either directly or indirectly, nor do or suffer anything to be done whereby any of such facilities shall or may be seized, taken in execution, attached, destroyed or injured. Any violation of the provisions of this paragraph or of paragraph (F) hereof shall entitle the Government forthwith to enter upon the premises wherein such facilities are found and remove the same.

(K) In the event the contracting officer shall determine, at any time after installation of any item of Schedule "A" facilities, that the item is not reasonably necessary for the performance of this contract or any other contract for the performance of which the use of such facilities has been authorized, he may serve on the contractor a written notice of his intention to remove such item. This determination is subject to written appeal by the contractor within ten (10) days to _____ or his
(Chief of the Technical Service)
duly authorized representative, whose decision shall be final and conclusive upon the parties hereto. Pending this decision, the facilities shall remain in the contractor's plant available for use. At any time within one year after completion or termination in whole or in part of such contracts, the contracting officer may serve on the contractor a written notice of his intention to remove all the Schedule "A" facilities or any portion thereof. Within the shortest practicable time after service of a notice under this paragraph (K), and in no event later than fifteen days thereafter (unless a longer time is allowed by the contracting officer), the contractor, at no expense to the Government in addition to the contract price, will have dismantled and prepared for shipment the items affected. Upon notification from the contractor that the items are ready for shipment, the Government shall remove them at the Government's expense.

(L) If, upon the completion or termination of this contract or any other contract entered into between the Government and the contractor for the performance of which the use of Schedule "A" facilities has been authorized, no notice pursuant to paragraph (K) of intention to remove an item has been received, the contractor shall, at no expense to the Government in addition to the contract price, place the item in stand-by condition, and thereafter maintain it in such condition in its own plant for a period of ninety (90) days from the date of such completion or termination (unless a notice pursuant to paragraph (K) is received in the meantime). In lieu of placing the item in stand-by condition and maintaining it in its own plant, the contractor may store the same elsewhere at its own expense provided that the item can be quickly and readily reinstalled in the production line and production resumed within a reasonable time if necessary in the interest of the Government.

(M) Unless a notice pursuant to paragraph (K) is sooner received, the contractor shall, for a period of nine (9) months after completion of the stand-by period, store the items affected as follows:

(1) In the plant where the items are then located, or in the contractor's other plants in the same locality, if space is available thereat and storage will not materially impair the use of the plant or plants for the contractor's Government or commercial work; or

(2) If space is not available at such plant or plants or storage thereat will materially impair their use by the contractor, then at any other place or places in the vicinity selected by the contractor which are considered satisfactory by the contracting officer. However, the contractor's obligation to store under this subparagraph (2) shall cease if such other place or places cannot be obtained by the contractor, unless the Government shall itself find and designate a place or places of storage.

At the time the items are placed in storage, whether in the contractor's plant or elsewhere, the parties shall attempt to negotiate a Supplemental Agreement to this contract providing for payment to the contractor of a sum or sums agreed upon as representing the reasonable expenses of placing and maintaining the items in storage. In the absence of such agreement, the contractor shall be entitled to receive payment, under this contract, of such reasonable expenses. The contractor's obligation in respect to storage shall be contingent upon the availability of appropriated funds for payment of such reasonable expenses, and if appropriated funds are not available, the contractor shall be under no such obligation. The items affected shall have been dismantled and prepared for shipment, at no expense to the Government in addition to the contract price, within fifteen days after the expiration of the storage period, or, if no storage obligation arises, then within fifteen days after the expiration of the stand-by period (unless a longer time is allowed by the contracting officer). Upon notification from the contractor that the items are ready for shipment, the Government shall remove them at the Government's expense.

(N) The ninety (90) day stand-by period, and the nine (9) month storage period, may be eliminated, shortened or lengthened by agreement of the parties on mutually agreeable terms.

[4] (O) The Government reserves the right to furnish to the contractor f. o. b. the contractor's plant any or all the items of Schedule "A" facilities upon written notice by the contracting officer to the contractor at any time prior to the installation of such items. In such event the contracting officer shall exercise the option described in paragraph (C) (1) or (C) (2) with respect to the item, eliminate it from Schedule "A", and place it on the list of Schedule "B" facilities hereinafter provided for.

[4] (P) The Government shall furnish to the contractor f. o. b. the contractor's plant, the Government-owned facilities listed in Schedule "B" attached hereto, not later than the dates shown thereon. Subject to the right of the contractor to inspect and reject Schedule "B" facilities for good and sufficient reason prior to shipment, the contractor shall receive the same in their then condition, without warranty express or implied on the part of the Government as to serviceability or fitness for use. The contractor shall bear the costs of installation of such facilities.[5] Schedule "B" facilities shall be held by the contractor and considered and treated in the same manner as Schedule "A" facilities under and pursuant to [6] paragraphs (E) (2) and (F) to (N) inclusive of this article.

[4] (Q) The contractor has in its possession, installed and ready for use under this contract, the facilities listed in Schedule "C", title to which is in the Government. Such facilities shall be held by the contractor and considered and treated in the same manner as Schedule "A" facilities under and pursuant to paragraphs (E) (2) and (F) to (N) inclusive of this article. Any previous agreement to the contrary is hereby modified accordingly.

NOTE 1: Cross-references: See §§ 81.365a, 81.451 (a), 81.488, 83.723 and Procurement Regulation No. 10 (§ 81.1601 et seq.).

NOTE 2: Where it is determined that a rental should be charged (see § 81.1602) paragraph (E) (2) of the article should be appropriately modified.

NOTE 3: Attention is invited to the fact that Government bills of lading (or commercial bills of lading to be converted into Government bills of lading at destination) may be availed of to secure the benefits of land grant freight rates where title to the facilities or parts thereof is in the Government at point of origin (see paragraph (E) (1) and (B)).

NOTE 4: In cases where facilities are hereafter to be acquired or manufactured by, or furnished by the Government to, a contractor, a clause may be included granting an option to the contractor to purchase the facilities, provided the chief of the technical service finds that such action will be in the interest of the Government. (The power to make this finding is not subject to delegation by the chief of the technical service, unless the Director, Purchases Division, Headquarters, Army Service Forces, specifically authorizes a delegation.) In such cases, unless otherwise authorized by the Director, Pur-

[4] Delete if inapplicable.

[5] If such costs are to be reimbursed to the contractor, make appropriate changes (see paragraphs (B) (3) (a) (c) (d) and (B) (4) (a) above).

[6] Insert "subparagraphs (1) and (3) of paragraph (C) and" if contractor is to be reimbursed the costs of installation of Schedule "B" facilities.

chases Division, Headquarters, Army Service Forces, the option will contain the following features:

(i) The option will come into effect only upon the date of expiration of the standby-plus-storage period, and will cover all, but not part of, the facilities as to which a standby obligation arose and as to which no notice under paragraph (K) of intention to remove has been served upon the contractor during the standby-plus-storage standby period.

(ii) The option period will extend for not more than fifteen days after the date specified in Note 4 (i).

(iii) The option price will be the full cost of the facilities to the Government (including transportation and installation charges) less specified rates of depreciation, plus storage charges incurred under paragraph (M).

NOTE 5: Amendments may be made of existing contracts, substituting the article above set forth (or pertinent portions thereof) for provisions regarding Government-owned facilities now appearing in such contracts, subject to the following:

(i) Uniformity of treatment is considered essential. Accordingly, authority to make these amendments will not be exercised until the technical service concerned apprises all its contractors holding Government-owned facilities of the promulgation of the article above set forth and specifically informs them that they may negotiate with the Government for amendment of their contracts.

(ii) Government negotiators must recognize that contractors will typically derive substantial benefits from these amendments. For example, under the article above set forth the standby period is ninety days and storage is at Government expense, while under the article previously authorized the standby period was one year, and storage expenses were not chargeable to the Government. In general, the article above set forth facilitates the conversion of plants. Accordingly, amendments of existing contracts will be permitted only where the Government receives material and adequate consideration, measured by any difference in value to the contractor between the superseded article and the article inserted by amendment.

(iii) Except with the approval of the chief of the technical service concerned, no amendment will be permitted of an existing Government-owned facilities article which includes a purchase option, unless, as part of the amendment, the purchase option is modified to include the features mentioned in Note 4 (i), (ii) and (iii) above. (The power to give such approval is not subject to delegation by the chief of the technical service, unless the Director, Purchases Division, Headquarters, Army Service Forces, specifically authorizes a delegation.) The approval of the Director, Purchases Division, Headquarters, Army Service Forces, will be obtained before any existing Government-owned facilities article which does not include a purchase option, is amended to grant such option.

(iv) The technical services will maintain close supervision of all amendments under this Note 5 will require adequate records to be prepared and preserved of the negotiations leading to the amendments.

NOTE 6: In the event that the facilities are located in an area outside the United States, where the services of the Loss and Salvage Organizations are not available, the following clause will be used in lieu of paragraph (F) (3) above:

Upon the happening of loss or destruction of or damage to Schedule "A" facilities caused by an excepted peril, the contractor shall communicate with the contracting officer, shall take all reasonable steps to protect the facilities from further damage, separate the damaged and undamaged facilities, put all the facilities in the best possible order, and furnish to the contracting officer a statement of: (a) the lost, destroyed and damaged facilities, (b) the time and origin of the loss, destruction or damage, (c) all known interests in commingled property of which the facilities are a part, and (d) the insurance, if any, covering any part of or interest in such commingled property. *If and as directed by the contracting officer, the contractor shall make repairs and renovations of the damaged facilities.* [Italicized words may be omitted in appropriate cases.] The contractor shall be reimbursed the expenditures made by it in performing its obligations under this subparagraph (3) as approved by the contracting officer and set forth in a Supplemental Agreement.

Section 81.362 is amended as follows:

§ 81.362 *Accident prevention.* Every lump sum construction contract, regardless of subject matter or amount, except contracts for the construction and/or repair of vessels and other floating equipment, will contain a clause substantially as follows:

Accident prevention. In order to protect the life and health of employees in the performance of this contract, the contractor will comply with all pertinent provisions of the "Safety Requirements for Excavation—Building—Construction" approved by the Chief of Engineers, December 16, 1941, as revised 15 March 1943 (a copy of which is on file in the office of the contracting officer) and as may be amended, and will take or cause to be taken such additional measures as the contracting officer may determine to be reasonably necessary for this purpose. The contractor will maintain an accurate record of and will report to the contracting officer in the manner and on the forms prescribed by the contracting officer, all cases of death, occupational disease and traumatic injury arising out of or in the course of employment on work under this contract. The contracting officer will notify the contractor of any non-compliance with the foregoing provisions and the action to be taken. The contractor shall, after receipt of such notice, immediately correct the conditions to which attention has been directed. Such notice, when served on the contractor or his representative at the site of the work, shall be deemed sufficient for the purpose aforesaid. If the contractor fails or refuses to comply promptly, the contracting officer may issue an order stopping all or any part of the work. When satisfactory corrective action is taken, a start order will be issued. No part of the time lost due to any such stop order shall be made the subject of claim for extension of time or for excess costs or damages by the contractor.

Every fixed-fee construction contract, regardless of subject matter or amount, will contain a clause substantially similar to the foregoing except that the last sentence will be omitted.

Section 81.363 is amended as follows:

§ 81.363 *Disposition of Government-owned property by contractors*—(a) *Articles.* (1) An article substantially as follows may be inserted in cost-plus-a-fixed-fee contracts when authorized by the provisions of § 83.727:

It is recognized that property (including without limitation machine tool and processing equipment, manufacturing aids, raw, manufactured, scrap and waste materials), title to which is or may hereafter become vested in the Government, will be used by or will be in the care, custody or possession of the Contractor in connection with the performance of this contract. With the approval in writing of the Contracting Officer (whether such approval is given prior to or after the giving of a notice of the termination of this contract for the convenience of the Government), the Contractor may transfer or otherwise dispose of such Government-owned property to such parties and upon such terms and conditions as the Contracting Officer may approve or ratify, or, with like approval by the Contracting Officer, the Contractor may itself acquire title to such property or any of it at a price mutually agreeable. The proceeds of any such transfer or disposition of the agreed price of any property, title to which is so acquired by the Contractor, shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be paid in such manner as the Contracting Officer may direct.

(2) If desired, the article authorized in subparagraph (1) may be designated as subparagraph (a) and there may be added thereto provisions substantially as follows:

(b) The Contractor is authorized to insert in any subcontract made by the Contractor on a cost-plus-a-fixed-fee basis under this contract substantially the following provision:

Article ____.—Sale of Government Property.—It is recognized that property (including without limitation machine tools and processing equipment, manufacturing aids, raw, manufactured, scrap and waste materials, title to which is or may hereafter become vested in the Government, will be used by or will be in the care, custody or possession of _____ (Subcontractor) in connection with the performance of this subcontract. With the approval in writing of the Contracting Officer for the plant of _____ (Subcontractor) (whether such approval is given prior to or after the giving of a notice of the termination of this subcontract), _____ (Subcontractor) may transfer or otherwise dispose of such Government-owned property to such parties and upon such terms and conditions as such Contracting Officer may approve or ratify, or, with like approval by, and at a price agreeable to, such Contracting Officer, _____ (Subcontractor) may itself acquire title to such property or any of it. The proceeds of any such transfer or disposal or the agreed price of any property, title to which is so acquired by _____ (Subcontractor) shall, at the direction of such Contracting Officer, be applied by _____ (Subcontractor) in reduction of any payments to be made by _____ (Prime Contractor) under this subcontract, or shall be paid to the Treasurer of the United States, or to _____ (Prime Contractor) for the account of the United States, in such manner as such Contracting Officer may direct.

(c) Upon approval of any transfer or other disposition of Government-owned property as provided in paragraph (b) above, which transfer or disposition is made to a transferee other than the Contractor, the Contractor shall be and hereby is released and discharged from liability for such property, if any, except that the Contractor shall be obligated to account to the Government for the proceeds of any such transfer or disposal of such property paid or credited to the Contractor pursuant to the direction of the Contracting Officer for the plant of any such subcontractor.

(3) Any existing cost-plus-a-fixed-fee contract may be amended to include an article substantially similar to that authorized by subparagraph (1) above or that authorized by subparagraphs (1) and (2) above.

(4) If a cost-plus-a-fixed-fee contract contains an article authorized by subparagraph (1) above and it is desired, without amending such contract, to confer upon subcontractors authority to dispose of Government-owned property, the subcontracts may be amended to insert therein the article contemplated by clause (b) contained in subparagraph (2) above.

In § 81.365 paragraph (a) is amended, paragraph (d) is redesignated (e) and amended, paragraphs (b), (c), (e), (f), (g), (h), and (i) are redesignated (c), (d), (f), (g), (h), (i) and (j), respectively, and a new paragraph (b) is added as follows:

§ 81.365 *Contract clauses in connection with bonds and insurance.* (a) In compliance with the policy expressed in § 81.434, the following article is prescribed for inclusion in cost-plus-a-fixed-fee contract (see Note 2 below).

Liability for Government-owned property. (a) Except as otherwise specifically provided, the contractor shall not be liable for loss or destruction of or damage to property of the Government in the possession or control of the contractor in connection with this contract (hereinafter called "Government property") unless such loss, destruction or damage results from wilful misconduct or failure to exercise good faith on the part of the contractor's corporate officers or other representatives having supervision or direction of the operation of the whole of the contractor's business or of the whole of any plant operated by the contractor in the performance of this contract.

(b) The contractor represents that it is not maintaining and agrees that it will not hereafter maintain insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to Government property, and represents that it is not including and agrees that it will not hereafter include in any price to the Government any charge or reserve for such insurance.

(c) Upon the happening of loss or destruction of or damage to Government property caused by:

Fire; lightning; windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the contractor or any agent or employee of the contractor; smoke; sprinkler leakage; earthquake, or volcanic eruption; flood, meaning thereby rising of rivers or streams; enemy attack or any action taken by the military, naval or air forces of the United States in resisting enemy attack,

the contractor shall communicate with the contracting officer and with the Loss and Salvage Organization now or hereafter designated by the contracting officer and, with the assistance of that organization employed by the contractor to perform services in accordance with instructions or regulations of the Government (unless the contracting officer directs that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the contracting officer a statement of: (1), the lost, destroyed and damaged Government property, (2) the time and origin of the loss, destruction or damage, (3) all known interests in commingled property of which the Government property is a part, and (4) the insurance, if any, covering any part of or interest in such commingled property. *If and as directed by the contracting officer, the contractor shall make repairs and renovations of the damaged Government property.*[1] The contractor shall be reimbursed the expenditures made by it and approved by the contracting officer in performing its obligations under this paragraph (c) (including charges made to the contractor by the Loss and Salvage Organization, except any of such charges, the payment of which the Government has, at its option, assumed direct).

(d) In the event the contractor is indemnified, reimbursed or compensated for any loss or destruction of or damage to Government property, it shall equitably reimburse the Government. The contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the contracting officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(e) The Government shall at all times have access to the premises wherein any Government property is located.

(f) The contractor shall insert in all cost-plus-a-fixed-fee subcontracts under this contract provisions which will make applicable to the Government and the subcontractors substantially the same rights and obligations in respect to the Government property as are made applicable to the Government and the contractor under this Article.

NOTE 1: Where facilities, such as machinery, are furnished by the Government or acquired for Government account under cost-plus-a-fixed-fee contracts, appropriate additional provisions, dealing with such subjects as standby, storage and removal, may be included.

NOTE 2: (a) The Article set forth above will be included in all cost-plus-a-fixed-fee contracts executed on or after 15 March 1944.

(b) Whenever the terms of a cost-plus-a-fixed-fee contract are to be modified by the execution, on or after 15 March 1944, of a supplemental agreement, and the contract to be modified does not contain an Article identical in wording with that set forth above, the supplemental agreement will provide that the contract is modified to include the Article.

(c) In order that the services of the Loss and Salvage Organizations may be made available, widely and promptly, it is desired, in addition, that existing contracts be amended whenever practicable to incorporate the Article even when occasion does not arise to write a supplemental agreement for other reasons.

NOTE 3: See §§ 81.434 (a) and 81.498 in regard to Loss and Salvage Organizations.

NOTE 4: In the event that the Government property is located in an area outside of the United States, where the services of the Loss and Salvage Organizations are not available, the following clause will be used in lieu of paragraph (c) of the clause prescribed above:

Upon the happening of loss or destruction of or damage to Government property, the contractor shall communicate with the contracting officer, shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the contracting officer a statement of: (1) the lost, destroyed and damaged Government property, (2) the time and origin of the loss, destruction or damage, (3) all known interests in commingled property of which the Government property is a part, and (4) the insurance, if any, covering any part of or interest in such commingled property. *If and as directed by the contracting officer, the contractor shall make repairs and renovations of the damaged Government property.*[1] The contractor shall be reimbursed the expenditures made by it and approved by the contracting officer in performing its obligations under this paragraph (c).

(b) Except[1] in the special cases discussed in § 81.451, the following article is prescribed for inclusion in fixed or unit price contracts under which Government-owned property is furnished to the contractor. (See Note 1 below.) When deemed desirable by a technical service, because of the amount of Government property involved or for other reasons in the best interests of the United States, the substance of the following article may also be approved for inclusion in fixed or unit price subcontracts under either cost-plus-a-fixed-fee or fixed or unit price prime contracts. This article is *not* intended to cover Government-owned facilities furnished under fixed or unit price contracts or subcontracts, as to which see § 81.332.

Liability for Government-owned property. (a) Except as otherwise specifically provided, the contractor shall not be liable for loss or destruction of or damage to property of the Government in the possession or control of the contractor in connection with this contract (hereinafter called "Government property") (1) caused by any peril while the property is in transit off the contractor's premises, or (2) caused by any of the following perils while the property is on the contractor's or subcontractor's or other premises or by removal therefrom because of any of the following perils:

Fire; lightning; windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the contractor or any agent or employee of the contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of rivers or streams; enemy attack or any action taken by the military, naval or air forces of the United States in resisting enemy attack.

The perils as set forth in (1) and (2) above are hereinafter called "excepted perils."

(b) The contractor represents that it is not maintaining and agrees that it will not hereafter maintain insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to Government property caused by any excepted peril, and represents that it is not including and agrees that it will not hereafter include in any price to the Government any charge or reserve for such insurance.

(c) Upon the happening of loss or destruction of or damage to Government property caused by an excepted peril, the contractor shall communicate with the contracting officer and with the Loss and Salvage Organization now or hereafter designated by the con-

[1] Italicized language may be omitted in appropriate cases.

tracting officer and, with the assistance of that organization employed by the contractor to perform services in accordance with instructions or regulations of the Government (unless the contracting officer directs that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the contracting officer a statement of: (1) the lost, destroyed and damaged Government property, (2) the time and origin of the loss, destruction or damage, (3) all known interests in commingled property of which the Government property is a part, and (4) the insurance, if any, covering any part of or interest in such commingled property. *If and as directed by the contracting officer the contractor shall make repairs and renovations of the damaged Government property.*[1] The contractor shall be reimbursed the expenditures made by it in performing its obligations under this paragraph (c) (including charges made to the contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed direct), as approved by the contracting officer and set forth in a Supplemental Agreement.

(d) With the approval of the contracting officer after loss or destruction of or damage to Government property, and subject to such conditions and limitations as may be imposed by the contracting officer, the contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the contractor, that separation is impracticable.

(e) Except to the extent of any loss or destruction of or damage to Government property for which the contractor is relieved of liability under the foregoing provisions of this Article, and except for reasonable wear and tear or depreciation, or the utilization of the Government property in accordance with the provisions of this contract, the Government property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the contractor in connection with this contract. In aid of its obligation so to return the Government property, the contractor shall maintain a property control, accounting and maintenance system consistent with good business practice.

(f) In the event the contractor is indemnified, reimbursed or compensated for any loss or destruction of or damage to Government property, caused by an excepted peril, it shall equitably reimburse the Government. The contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the contracting officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(g) The Government shall at all times have access to the premises wherein any Government property is located.

NOTE 1: (a) The article set forth above will be included in all fixed or unit price contracts under which Government-owned property is furnished to the contractor, executed on or after 15 March 1944.

(b) Whenever the terms of such a fixed or unit price contract are to be modified by the execution, on or after 15 March 1944, of a supplemental agreement, and the contract to be modified does not contain an article identical in wording with that set forth above, the supplemental agreement will provide that the contract is modified to include the article.

(c) In order that the services of the Loss and Salvage Organizations may be made available, widely and promptly, it is desired, in addition, that such existing contracts be amended whenever practicable to incorporate the article even when occasion does not arise to write a supplemental agreement for other reasons.

NOTE 2: See §§ 81.451 (a) and 81.498 in regard to Loss and Salvage Organizations.

NOTE 3: In the event that the Government property is located in an area outside of the United States, where the services of the Loss and Salvage Organizations are not available, the following clause will be used in lieu of paragraph (c) of the clause prescribed in paragraph (b) of this section.

Upon the happening of loss or destruction of or damage to Government property caused by an excepted peril, the contractor shall communicate with the contracting officer, shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the contracting officer a statement of: (1) the lost, destroyed and damaged Government property, (2) the time and origin of the loss, destruction or damage, (3) all known interests in commingled property of which the Government property is a part, and (4) the insurance, if any, covering any part of or interests in such commingled property. *If and as directed by the contracting officer, the contractor shall make repairs and renovations of the damaged Government property.*[1] The contractor shall be reimbursed the expenditures made by it in performing its obligations under this paragraph (c) as approved by the contracting officer and set forth in a Supplemental Agreement.

(c) Every cost-plus-a-fixed-fee contract will contain the following clause without deviation:

* * * * *

(d) Every cost-plus-a-fixed-fee contract will contain the following clause without deviation:

* * * * *

(e) Every cost-plus-a-fixed-fee contract, the terms of which do not require the incorporation by reference in cost-plus-a-fixed-fee subcontracts, of all of the terms and conditions of the prime contract in regard to insurance and liability, will contain the following clause without deviation:

(1) The Contractor will, if so requested by the Contracting Officer, include in any particular cost-plus-a-fixed-fee subcontract, a provision as follows:

The Subcontractor shall procure and thereafter maintain the following insurance: ---------- (here shall be inserted the types, amounts and limits of insurance, as specified in writing by the Contracting Officer). The cost of such insurance and losses or expenses (including settlements made with the written consent of the Contracting Officer who executed the principal contract or his duly authorized successor or representative) not compensated by insurance or otherwise and found and certified by the Contractor and said Contracting Officer or his duly authorized successor or representative to be just and reasonable, actually sustained by the Subcontractor in the defense and/or discharged of such claims of others on account of death or bodily injury of persons or loss or destruction of or damage to property as may arise out of or in connection with the performance of the work under this subcontract shall be allowable items of cost hereunder: *Provided*, That such reimbursement shall not include any amount for which the Subcontractor would have been indemnified or compensated except for the failure of the Subcontractor to procure or maintain insurance in accordance with the requirements of this subcontract. The Subcontractor shall give the Contractor immediate notice in writing of any suit or action filed against the Subcontractor, arising out of the performance of this subcontract and of any claims against the Subcontractor, the cost and expense of which is reimbursable under the provisions of this subcontract pertinent to allowable items of cost, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of insurance coverage. The Subcontractor shall furnish immediately to the Contractor copies of all pertinent papers received by the Subcontractor. Insofar as the following shall not conflict with any policy or contract, the Subcontractor shall do any and all things to effect an assignment and subrogation in favor of the Contractor or its nominee of all Subcontractor's rights and claims, except rights and claims of the Subcontractor against the Contractor or such nominee, arising from or growing out of such asserted claim, and, if required by the Contractor, shall authorize representatives of the Contractor or of its nominee to settle and/or defend any such claim and to represent the Subcontractor in or take charge of any such litigation. Every policy for the insurance referred to in this paragraph shall contain an indorsement or other recital excluding by appropriate language any claim on the part of the insurer or obligor to be subrogated on payment of a loss or otherwise to any claim against the Contractor or the Government.

(2) Whenever a provision as set forth in paragraph (1) of this article is inserted in any subcontract, then the contractor will forthwith transmit to the Contracting Officer all notices and copies of papers received by it from the subcontractor, will make the Government its nominee for all assignments and subrogations received by it from the subcontractor thereunder and, if required by the Contracting Officer, will do everything in its power to have representatives of the Government authorized to settle and/or defend the claims therein referred to and, to represent the subcontractor in or to take charge of the litigation therein referred to.

(f) In accordance with the instructions contained in paragraph (g) to (j), inclusive, there will be inserted without deviation in Architect-Engineer-Construction-Management Service Contracts and all contracts (except supply contracts), executed under or in connection with such contracts, the appropriate clause or clauses set forth in said paragraphs.

(g) In the Architect-Engineer-Construction-Management-Service-contract the following clause:

* * * * *

(h) In cost-plus-a-fixed-fee subcontracts, executed under Architect-Engineer-Construction-Management Service Contracts, there will be inserted without deviation the following clause:

All necessary insurance protection required under the terms of this contract will be provided by the policies maintained by the Architect-Engineer-Manager Contractor.

[1] Italicized language may be omitted in appropriate cases.

(i) In lump-sum subcontracts, executed under Architect-Engineer-Construction-Management Service Contracts, there will be inserted without deviation the following clause:

* * * * *

(j) In prime lump sum or unit price contracts, collateral to Architect-Engineer-Construction-Management Service Contracts, there will be inserted without deviation the following clause:

* * * * *

[Procurement Reg. 4]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

BONDS AND INSURANCE

Section 81.407 is amended by the addition of two undesignated paragraphs at the end of paragraph (b) (5).

§ 81.407 *Filing and examination of bonds and consents of surety.* * * *

(b) * * *

(5) * * *

There are a variety of discounts which may be applied to blanket fidelity insurance under certain circumstances. A 30% class discount may be applicable to the class A employee premium charge, depending on the nature of the assured's contracts on hand when the bond is written or renewed. A 10% general discount may be applicable to the combined class A and class B employee premium charge for a Primary Commercial Blanket Bond, depending on the number of employees involved and the amount of the bond. An experience discount ranging as high as 25% may be applicable to the final premium, depending on the size of the premium and the amount of claims or losses incurred. Therefore, when blanket fidelity insurance is purchased, carriers should be cautioned to apply all appropriate discounts.

When, pursuant to § 81.409 (c) hereof, a duplicate of the fidelity bond or policy is forwarded to the Contract Insurance Branch, Special Financial Services Division, Headquarters, Army Service Forces, it will be accompanied by (i) a statement showing what percentage of the named assured's total volume of contracts for all departments and agencies of the Government is cost-plus-a-fixed-fee, (ii) a classification of the employees showing the number placed in A, B, and C classes, and (iii) if available a complete computation of the premium charge or proposed premium charge. Upon receipt of this data the Contract Insurance Branch will advise the service concerned if the premium has not been correctly computed.

In § 81.408 paragraph (b) is added as follows:

§ 81.408 *General policy as to rates.* * * *

(b) *Bond premium computation on terminated contracts.* (1) Premium on the bonds described in § 81.406 (b) and (c) (except in certain instances mentioned in such paragraphs where the rate is applied to the penalty of the bond or bonds) is determined by multiplying the appropriate rate of premium by the final contract price, that is, the total remuneration received by the contractor after final settlement. The rule followed by the surety industry generally is as follows:

> The "contract price" on which premium is computed means the whole sum of money or other reimbursement which has passed from the owner to the contractor when final settlement between the two has been made, excluding any bonus for "time". If this sum is different from the original estimate, premium must be adjusted accordingly, either by a refund of part of the original premium by the surety if the original estimate was larger than the actual contract price, or by payment of additional premium by the contractor if the original estimate was smaller than the actual contract price. (Towner Rating Bureau bond manual, page 47.)

Accordingly, when a contract is terminated short of original estimate, the decrease in contract price requires that an adjustment in bond premium be taken into account when final settlement is made. Such adjustment (or return premium) on a contract decrease is ascertained by subtracting from the original premium the amount of premium developed in multiplying the appropriate rate by the terminated contract price. By "appropriate" rate is meant the rate that would have been used for a contract in the amount of the terminated contract price at the time the original contract was awarded. Care should be observed in connection with construction contracts in excess of $2,500,000 in amount for the reason that prior to 28 August 1942 such contracts were accorded special rates of a graduated nature, depending on the size of the contract and the performance time involved. Subsequent to 28 August 1942 special rates have been promulgated for construction contracts where performance time required more than twelve months. In any case where doubt exists or special circumstances are believed involved, full details together with the recommendation of the chief of the technical service will be forwarded to the Contract Insurance Branch, Special Financial Services Division, Headquarters, Army Service Forces for review and advices.

(2) Premium on bonds required in support of War Department contracts other than those described in § 81.406 (b) and (c) is determined by various methods, depending on the nature of the bond or contract involved. As a general rule, adjustment of bond premium is in order where a contract is terminated short of completion. Especially is this true where the bond premium is included in the contract price as an item of cost. In any case where doubt exists or special circumstances are believed involved, full details together with the recommendation of the chief of the technical service will be forwarded to the Contract Insurance Branch, Special Financial Services Division, Headquarters, Army Service Forces, for review and advices.

(3) Premium on fidelity and forgery bonds furnished in connection with cost-plus-a-fixed-fee contracts is paid for a certain period of time, which is generally one year. There is attached to each such bond a rider providing for pro rata refund of premium on a calendar day basis when the bond is canceled upon contract termination.

Paragraph (a) of § 81.410 is amended to read as follows:

§ 81.410 *Bonds executed by receivers, trustees, administrators, guardians, or executors as principal obligors.* (a) Receivers, trustees, administrators, guardians or executors are officers of the court which appointed them. Their powers are limited to those specified in the court order appointing them. Accordingly, when a bond is executed by such an officer of a court, a duly authenticated copy of the court order showing his authority to execute the bond should be obtained.

Section 81.434 is amended as follows:

§ 81.434 *Insurance on Government-owned property*—(a) *Approval required.* (1) No insurance covering loss or destruction of or damage to property, legal title to which is in the United States and which is to be used in connection with a cost-plus-a-fixed-fee contract, will be required or authorized without the prior approval of the Contract Insurance Branch, Special Financial Services Division, Headquarters, Army Service Forces. To implement this policy of self-insurance on government-owned property, there shall be included in the contract, the clause set forth in § 81.365 (a). The policy of self-insurance rests to a large degree upon savings to the Government obtained by eliminating the cost of insurance which otherwise would be added to the contract price.

(2) Where it is considered advisable to impose specific standards of care such as an obligation to keep the facilities in good operating condition and repair and to make all necessary repairs and replacements, a clause to this effect may be included in the contract.

(b) *Procedure to be followed in the event of loss or destruction of or damage to property of the Government in the possession or control of contractors (or subcontractors).* (1) In the event of loss or destruction of or damage to property of the Government in the possession or control of contractors (or subcontractors), it is of the utmost importance that immediate action be taken so that the property will be conserved and production will suffer the least interruption. Contractors are generally not in a position to handle losses with maximum efficiency and War Department personnel may not be available or equipped to give all the required attention to such a problem.

(2) Accordingly, upon the happening of loss or destruction of or damage to Government property, the prescribed contract article (§ 81.365 (a)) requires the contractor (or subcontractor) to give notice to and employ the services of a Loss and Salvage Organization designated by the contracting officer (unless the contracting officer directs that no such organization be employed).

(3) The Loss and Salvage Organizations referred to are the Fire Companies Adjustment Bureau, Inc., The Western Inspection and Adjustment Company, or the Underwriters Adjustment Company

(hereinafter or elsewhere designated as Loss and Salvage Organization). A list of the offices of these organizations with telephone numbers, is set forth in § 81.498. Their services will be rendered to contractors (or subcontractors) under a schedule of rates filed with the War Department and intended to cover costs without allowance for profit.

(4) Each office has been instructed to respond immediately to requests of contractors in connection with loss or destruction of or damage to Government property while at fixed locations or in courses of transit, and thereafter investigate the damage or loss, prevent the accrual of further damage or deterioration, eliminate hazards to life or other property, clear debris, locate and remove property to appropriate places of storage or erect suitable shelter therefor and otherwise conserve and protect all possible salvage. In the event of catastrophic loss, the Loss and Salvage Organizations may procure the services of others and temporarily augment their own staffs so that the loss may be handled with the utmost dispatch and efficiency. The organization so employed will report as may be appropriate to the contracting officer or to the contractor, and generally will operate under the regulations and the specific instructions of the contracting officer.

(5) The prevention of further and progressive loss to damaged property, its repair or disposal, are steps which are related and which are, in commercial practice, generally combined into one series of operations performed or directed by one organization. Where, under the prescribed contract article (§ 81.365 (a)), the contractor (or subcontractor) has undertaken, if and as directed by the contracting officer, to make repairs and renovations, it may be to the advantage of the Government to request the contractor to employ the Loss and Salvage Organization to assist in repair and renovation. Similarly, under the contract clause set forth in § 81.363, assistance may be sought from the Loss and Salvage Organization in respect to disposal of damaged Government property.

(6) In the event that the Government property is located in an area outside of the United States, where none of the above organizations has resident representatives reasonably accessible, there will be included in the contract the clause set forth in Note 4, § 81.365 (a) and in the event of loss, the contracting officer will supervise and enforce the discharge of the contractor's obligations.

Section 81.451 is amended to read as follows:

§ 81.451 *Insurance on Government-owned property.* The same general policy exists with respect to Government-owned property in the possession, care, custody or control of the lump sum contractor as exists with respect to property in the possession, care, custody or control of cost-plus-a-fixed-fee contractors (see § 81.434). To implement this policy of self-insurance on Government-owned property, there shall be inserted in the contract the article set forth in § 81.365 (b), or in the case of facilities the article set forth in § 81.332. The policy to a large degree rests upon the savings to the Government obtained by elimination of insurance which savings are reflected in the contract price. Where, by reason of special circumstances, such savings are not practicable, are trivial in amount, are difficult of ascertainment or there is a commingling of values and interests, the chief of the technical service may in his discretion permit insurance. (This will ordinarily be done in the case of service contracts of the type of laundry and shoe repair contracts, and contracts with motor carriers for the transportation of Government-owned property.) In such cases there will be omitted from the contract the article set forth in § 81.365 (b) or § 81.332.

(a) *Procedure to be followed in the event of loss or destruction of or damage to property of the Government in the possession or control of contractors (or subcontractors).* (1) Except when insurance is permitted, upon the happening of loss or destruction of or damage to property in the possession or control of contractors (or subcontractors) caused by an "excepted peril" (see §§ 81.365 (b) and 81.332) the procedure to be followed is the same as that described in § 81.434 (b).

(2) In connection with the disposal of damaged Government property, attention is invited to paragraph (d) of contract articles in § 81.365 (b) and paragraph (F) (4) of contract article in § 81.332, which are comparable with § 81.363.

Section 81.498 is added:

§ 81.498 *List of offices of Loss and Salvage Organizations* (see § 81.434 (b)).

ABBREVIATIONS

FCAB—Erie Companies Adjustment Bureau, Inc.
WAIC—Western Adjustment and Inspection Company.
UAC—Underwriters Adjusting Company.

City and State, Organizations, Office Location, and Telephone Number

ALABAMA

Birmingham, FCAB; 213 North 21st Street; 7-1121.
Dothan; FCAB; 103½ North Foster Street; 695.
Huntsville; FCAB; 104 West Clinton Street; 564.
Mobile; FCAB; First Nat'l Annex, St. Francis St.; 2-6771.
Montgomery; FCAB; Shepherd Building; 5271.

ARIZONA

Phoenix; FCAB; Luhrs Tower Building; 3-3157.
Tucson; FCAB; 301 East Congress Street; 4838.

ARKANSAS

El Dorado; FCAB; Marks Building; 1404.
Fort Smith; FCAB; Kennedy Building; 5161.
Jonesboro; FCAB; 112½ West Washington Street; 589.
Little Rock; FCAB; Hall Building; 7125.
Texarkana; FCAB; Texarkana National Bank Building; 1-346.
West Memphis; FCAB; 229 Broadway; 83.

CALIFORNIA

Bakersfield; FCAB; Professional Building; 5-5763.
Chico; FCAB; Morehead Building; 917.
El Centro; FCAB; Bank of America Building; 173.
Fresno; FCAB; Brix Building; 3-2191.
Long Beach; FCAB; Ocean Center Building; 692-39.
Los Angeles; FCAB; Fidelity Building; Madison 1341.
Oakland; FCAB; Bank of America Building; Higate 2063.
Riverside; FCAB; Bonnett Building; 6234.
Sacramento; FCAB; Farmers & Mechanics Building; 2-5881.
Salinas; FCAB; Bank of America Building; 5588.
San Bernardino; FCAB; Citizens National Bank Building; 2157.
San Diego; FCAB; First National Bank Building; Franklin 3168.
San Francisco; FCAB; 300 Montgomery Street; Garfield 0332.
San Jose; FCAB; Bank of America Building; Ballard 6083.
San Luis Obispo; FCAB; Security First Nat'l Bank Building; 1968.
Stockton; FCAB; California Building; 5-5776.
Vallejo; FCAB; 710 Florida Street, 3-7639.

COLORADO

Colorado Springs; FCAB; Burns Building; Main 6121.
Denver; FCAB; Gas & Electric Building; Cherry 5481.
Durango; FCAB; 575 Fourth Avenue; 168.
Grand Junction; FCAB; 246 Grand Avenue; 1339.
Pueblo; FCAB; Thatcher Building; 2070.
Trinidad; FCAB; First National Bank Building; 388M.

CONNECTICUT

Hartford; FCAB; 410 Asylum Street; 7-7118.
New Haven; FCAB; 205 Church Street; 7-3138.

DELAWARE

Wilmington, FCAB; Equitable Building; 4-2421.

DISTRICT OF COLUMBIA

Washington; FCAB; 1511 "K" Street NW.; National 0870.

FLORIDA

Ft. Myers; FCAB; 1309 Crawford Street; 787.
Gainesville; FCAB; Professional Building; 264.
Jacksonville; FCAB; 112 West Adams Street; 5-3387.
Miami; FCAB; 117 N. E. First Avenue; 3-0701.
Orlando; FCAB; 307 South Orange Avenue; 7126.
Pensacola; FCAB; American National Bank Building; 6179.
Tampa; FCAB; Wallace S. Building; M-8337.
West Palm Beach; FCAB; Citizens Building; 6478.

GEORGIA

Albany; FCAB; Albany Theatre Building; 1507.
Atlanta; FCAB; Trust Co. of Georgia Building; Walnut 3824.
Augusta; FCAB; Herald Building; 2-5586.
Columbus; FCAB; Hill Building; 3-6381.
Macon; FCAB; 516 Mulberry Street; 3336.
Savannah; FCAB; 35 Bull Street; 2-3179.
Waycross; FCAB; Bunn Building; 20.

IDAHO

Boise; FCAB; First National Bank Building; 159.
Pocatello; FCAB; Carlson Building; 40.

ILLINOIS

Aurora; WAIC; Terminal Building; 9168-9169.
Bloomington; WAIC; 114½ No. Main Street; 6008-5.
Carbondale; WAIC; Carbondale National Bank Bldg.; Main 600.
Centralia; WAIC; Smith Building; 2485.
Champaign; WAIC; Lincoln Building; 2400.
Chicago; WAIC; 175 West Jackson Boulevard; Wabash 6400.

Danville; UAC; Temple Building; Main 2287.
Decatur; WAIC; Citizens Building; 5383.
East St. Louis; WAIC; Goldman Building; Hemlock 300.
Galesburg; WAIC; Bondi Building; 1611 Main.
Joliet; UAC; Morris Building; 5466.
Kankakee; WAIC; City National Bank Building; Main 339.
La Salle; WAIC; La Salle State Bank Building; LaSalle 680.
Marion; UAC; 304 Market Street; 433.
Peoria; UAC; Alliance Life Building; 8139.
Quincy; WAIC; W. C. U. Building; 285.
Rockford; UAC; Rockford Trust Building; Main 4090.
Springfield; WAIC; Myers Building; 4654.
Waukegan; WAIC; 108 S. Genesee Street; Majestic 1410.

INDIANA

Anderson; WAIC; Anderson Bank Building; 8084.
Bloomington; WAIC; Citizens Trust Building; 2341.
Evansville; WAIC; Hulman Building; 5241–2–3.
Fort Wayne; WAIC; Old First Bank Building; Anthony 1472.
Gary; UAC; Gary Trust Building; 5297.
Greensburg; WAIC; Decatur County Nat'l Bank Bldg.; 4341.
Hammond; WAIC; Lloyd Building; 6030–6031.
Indianapolis; UAC; Fletcher Trust Building; Market 1491.
Kokomo; WAIC; Armstrong-Landon Building; 7612.
Lafayette; WAIC; Lafayette Loan & Trust Building; 2277.
Muncie; WAIC; Johnson Block; 5527.
New Albany; WAIC; Elsby Building; 772.
Richmond; WAIC; Second National Bank Building; 4858.
South Bend; UAC; Sherland Building; 3–3126.
Terre Haute; UAC; 641 Ohio Street; Crawford 2317.
Vincennes; WAIC; LaPlante Building; 740.

IOWA

Burlington; WAIC; Tama Building; 113.
Cedar Rapids; UAC; Merchants National Bank Bldg.; 8352.
Council Bluffs; WAIC; City National Bank Building; 2589.
Davenport; WAIC; Kahl Building; 2–5371.
Des Moines; WAIC; Liberty Building; 3–8144.
Dubuque; WAIC; Dubuque Building; 990 and 978.
Fort Dodge; UAC; State Bank Building; Walnut 3381.
Mason City; UAC; Forresters Building; 548.
Ottumwa; WAIC; Phoenix Trust Building; 3030.
Sioux City; UAC; Badgerow Building; 8–3720.
Waterloo; UAC; Marsh Place Building; 3337.

KANSAS

Dodge City; WAIC; First National Bank Building; 1767.
Great Bend; WAIC; Cox Building; 289.
Hutchinson; WAIC; Wolcott Building; 375.
Kansas City; WAIC; Occidental Life Building; Drexel 0660.
Leavenworth; WAIC; Axa Building; 807.
Norton; WAIC; 611 North Grant Street; 740.
Parsons; WAIC; 115½ S. Eighteenth Street; 917.
Salina; WAIC; National Bank of America Building; 475.
Topeka; WAIC; Insurance Building; 5684–5685.
Wichita; UAC; Petroleum Building; 4–7333.

KENTUCKY

Ashland; WAIC; Second National Bank Building; Main 931.
Bowling Green; WAIC; The Armory; 787.
Covington; WAIC; First National Bank Building; Hemlock 3313.
Lexington; UAC; First National Bank Building; 809.
Louisville; WAIC; Starks Building; Jackson 5211.
Madisonville; WAIC; 103 North Main Street; 151.
Middlesboro; WAIC; Peoples Building; 73.
Paducah; WAIC; Citizens Savings Bank Building; 3618.

LOUISIANA

Alexandria; FCAB; Guaranty Bank Building; 7752.
Baton Rouge; FCAB; Louisiana National Bank Building; 3–1784.
Lake Charles; FCAB; Weber Building; 5780.
Monroe; FCAB; Bernhardt Building; 5000.
New Orleans; FCAB; Maritime Building; MA 6881.
Shreveport; FCAB; City Bank Building; 2–7151.

MAINE

Bangor; FCAB; 84 Harlow Street; 7348.
Portland; FCAB; Masonic Temple Building; 3–5695.

MARYLAND

Baltimore; FCAB; Garrett Building; Plaza 6224.
Cumberland; FCAB; Liberty Trust Building; 1475.
Hagerstown; FCAB; 74 West Washington Street; 725.
Salisbury; FCAB; Colonial Building; 2220.

MASSACHUSETTS

Boston; FCAB; 141 Milk Street; Hancock 6050.
Lawrence; FCAB; Bay State Building; 6050.
New Bedford; FCAB; First National Building; 6–8559.
Springfield; FCAB; 1387 Main Street; 6–1836.
Worcester; FCAB; 340 Main Street; 3–8127.

MICHIGAN

Ann Arbor; WAIC; First National Building; 2–5663, 5664.
Battle Creek; WAIC; Michigan National Bank Building; 2–5557.
Bay City; WAIC; Bay City Bank Building; 4524.
Benton Harbor; WAIC; 139 Pipestone Street; 6112.
Dearborn; WAIC; Calvin Theatre Building; Dearborn 4400.
Detroit; WAIC; National Bank Building; Cadillac 2932.
Flint; WAIC; Union Industrial Building; 2–3145, 3146.
Grand Rapids; UAC; Assn. of Comm. Building; 93108.
Ishpeming; WAIC; Bell Building; 467.
Jackson; UAC; Jackson City Bank Building; 5657.
Kalamazoo; WAIC; American National Bank Building; 6163–4.
Lansing; UAC; Hollister Building; 5–7283.
Muskegon; WAIC; Hackley Union National Bank Building; 23–184.
Petoskey; WAIC; Achenbach Building; 3581.
Pontiac; UAC; Community Bank Building; 2–5110.
Port Huron; WAIC; Michigan National Bank Building; 8141.
Saginaw; WAIC; Second National Bank Building; 2–2136, 2137.
Traverse City; WAIC; State Bank Building; 412.

MINNESOTA

Brainerd; WAIC; Citizens State Bank Building; 846.
Duluth; WAIC; Lonsdale Building; Melrose 863, 864.
Hibbing; UAC; Merchants & Miners Bank Building; 2068.
Mankato; WAIC; Medical Block Building; 4022.
Minneapolis; UAC; Northwestern Bank Building; Atlantic 0494.
St. Paul; WAIC; Pioneer Building; Garfield 7405.
Virginia; WAIC; First National Bank Building; 600.

MISSISSIPPI

Clarksdale; FCAB; McWilliams Building; 436.
Greenville; FCAB; Leyser Building; 321.
Gulfport; FCAB; Bank of Gulfport Building; 346.
Hattiesburg; FCAB; Ross Building; 583.
Jackson; FCAB; Standard Life Building; 3–2446.
Meridian; FCAB; Threefoot Building; 1840.
Tupelo; FCAB; Bank of Tupelo Building; 1071.

MISSOURI

Cape Girardeau; WAIC; 110 Themis Street; 1489.
Chillicothe; WAIC; 601 Locust Street; 150.
Independence; WAIC; First National Bank Building; Clifton 1777.
Jefferson City; WAIC; Central Trust Building; 2038.
Joplin; UAC; Joplin National Bank Building; 4124.
Kansas City; UAC; Chambers Building; Harrison 3860.
Springfield; WAIC; Landers Building; 1401.
St. Joseph; UAC; Corby Building; 4–1151.
St. Louis; WAIC; Pierce Building; Chestnut 9510.

MONTANA

Billings; FCAB; Treasure State Building; 3101.
Butte; FCAB; Rialto Building; 3231.
Great Falls; FCAB; Ford Building; 4329.
Missoula; FCAB; Montana Building; 5344.

NEBRASKA

Grand Island; UAC; Masonic Building; 578.
Hastings; WAIC; Madgett Building; 1113.
Lincoln; UAC; Stuart Building; 2–3367.
Norfolk; WAIC; Bishop Block; 506.
North Platte; WAIC; Dickey Building; 1563.
Omaha; WAIC; Brandeis Theatre Building; Atlantic 6485.
Scottsbluff; WAIC; Burr Building; 323.

NEVADA

Reno; FCAB; 25 East First Street; 5124.
Las Vegas; FCAB; 19 Boggs Building; 1515.

NEW HAMPSHIRE

Manchester; FCAB; 1003 Elm Street; 5350.

NEW JERSEY

Asbury Park; FCAB; 601 Bangs Avenue, 8440.
Jersey City; FCAB; 26 Journal Square; Journal Sq. 2–3664.
Newark; FCAB; 31 Clinton Street; Market 2–0322.
Paterson; FCAB; 5 Colt Street; Sherwood 2–7224.

NEW MEXICO

Albuquerque; FCAB; Sunshine Building; 8538.
Roswell; FCAB; J. P. White Building; 238.
Clovis; FCAB; 703 Axtell Avenue; 322–J.

NEW YORK

Albany; FCAB; 80 State Street; 4–7181.
Binghamton; FCAB; 19 Chenango Street; 2–4244.
Buffalo; FCAB; Chamber of Commerce Building; Washington 0726.
Elmira; FCAB; Hulett Building; 6171.
Jamaica; FCAB; 161–19 Jamaica Avenue; 6–6202.
Jamestown; FCAB; Wellman Building; 7185.
Malone; FCAB; 36 West Main Street; 357.
New York; FCAB; 116 John Street; Cortland 7–4074.
Niagara Falls; FCAB; United Office Building; 3980.
Poughkeepsie; FCAB; 25 Market Street; 2926.
Rochester; FCAB; Lincoln Alliance Bank Building; Stone 817.

Syracuse; FCAB; O. C. S. B. Building; 2-2117.
Utica; FCAB; First National Bank Building; 2-5151.
White Plains; FCAB; 31 Mamaroneck Avenue; 9560.

NORTH CAROLINA

Asheville; FCAB; Flat Iron Building; 2368.
Charlotte; FCAB; Commercial Bank Building; 3-3761.
Goldsboro; FCAB; Bank of Wayne Building; 232.
Greensboro; FCAB; Dixie Building; 2-0177.
Raleigh; FCAB; Capital Club Building; 2-2041.
Wilmington; FCAB; Murchison Building; 4119.
Winston-Salem; FCAB; Reynolds Building; 3-3316.

NORTH DAKOTA

Bismarck; WAIC; First National Bank Building; 466.
Fargo; WAIC; First National Bank Building; 2-2509.
Grand Forks; WAIC; Widlund Block; 1360.
Minot; WAIC; First National Bank Building; 851.

OHIO

Akron; WAIC; Akron Savings & Loan Building; Franklin 4147-48.
Ashtabula; WAIC; 4635 Main Avenue; 6565.
Cambridge; WAIC; Central National Bank Building; 2205.
Canton; WAIC; Renkert Building; 6361-62.
Cincinnati; UAC; Schmidt Building; Main 4830.
Cleveland; UAC; Swetland Building; Cherry 5671.
Columbus; WAIC; Huntington National Bank Building; Adams 3285.
Dayton; UAC; Mutual Home Building; Fulton 5153.
Defiance; WAIC; Savings & Loan Building; 364.
Findlay; WAIC; First National Bank Building; 307.
Hamilton; WAIC; First National Bank Building; 1716.
Lorain; WAIC; Broadway Building; 6921-22.
Mansfield; WAIC; Richland Trust Co. Building; 2467-6.
Marion; UAC; 118 S. State Street; 2249.
Portsmouth; WAIC; Masonic Temple; 1696.
Sandusky; WAIC; Feick Building; 1407.
Springfield; WAIC; Tecumseh Building; 3727.
Steubenville; WAIC; National Exchange Bank Building; 21265.
Toledo; UAC; Richardson Building; Main 6245.
Youngstown; WAIC; Mahoning Bank Building; 4-2151-52.

OKLAHOMA

Ada; FCAB; Cummings Building; 1420.
Ardmore; FCAB; Gilbert Building; 499.
Clinton; FCAB; First National Bank Building; 630.
Lawton; FCAB; Koehler Building; 3374.
McAlester; FCAB; Arnote Building; 1276.
Muskogee; FCAB; Barnes Building; 2420.
Oklahoma City; FCAB; Mercantile Building; 3-1406.
Ponca City; FCAB; First National Bank Building; 511.
Tulsa; FCAB; Hunt Building; 4-4176.

OREGON

Eugene; FCAB; Miner Building; 2167.
Klamath Falls; FCAB; First National Bank Building; 4144.
Portland; FCAB; Yeon Building; Broadway 3545.

PENNSYLVANIA

Allentown; FCAB; Dime Building; 9585.
Altoona; FCAB; Central Trust Building; 9411.
Du Bois; FCAB; Deposit National Bank Building; 304.
Erie; FCAB; Marine National Bank Building; 26-797.
Harrisburg; FCAB; 240 North Third Street; 8277.
Hazleton; FCAB; Markle Bank Building; 4094.
Philadelphia; FCAB; The Insurance Exchange; Lombard 0653.
Pittsburgh; FCAB; Arrott Building; Court 3980.
Reading; FCAB; Ganster Building; 4-5171.
Scranton; FCAB; 125 Adams Avenue; 7247.
Wilkes-Barre; FCAB; Miners National Bank Building; 2-5161.
Williamsport; FCAB; First National Bank Building; 4035.

RHODE ISLAND

Providence; FCAB; Turks Head Building; Gaspee 9721.

SOUTH CAROLINA

Charleston; FCAB; Southern Home Building; 7776.
Columbia; FCAB; Liberty Life Building; 6945.
Florence; FCAB; Florence Trust Company Building; 1775.
Greenville; FCAB; Woodside Building; 4670.

SOUTH DAKOTA

Aberdeen; UAC; Capital Building; 3405.
Huron; WAIC; Farmers & Merchants Bank Building; 3434.
Rapid City; WAIC; Rapid City National Bank Building; 346.
Sioux City; WAIC; National Bank of South Dakota Building; 211.
Watertown; WAIC; Woolworth Building; 524.

TENNESSEE

Chattanooga; FCAB; Provident Life Building; 6-6434.
Jackson; FCAB; Commercial Building; 3940.
Knoxville; FCAB; Hamilton Bank Building; 3-0441.
Memphis; FCAB; Sterick Building; 5-2781.
Nashville; FCAB; Nashville Trust Building; 5-2708.

TEXAS

Abilene; FCAB; Mims Building; 6251.
Amarillo; FCAB; Oliver-Eakle Building; 2-2234.
Austin; FCAB; Norwood Building; 8-6468.
Beaumont; FCAB; Goodhue Building; 4065.
Bryan; FCAB; First State Bank Building; 2-8765.
Corpus Christi; FCAB; Jones Building; 7737.
Dallas; FCAB; Liberty Bank Building; 7-9901.
El Paso; FCAB; Bassett Tower Building; Main 1172.
Fort Worth; FCAB; Petroleum Building; 2-3295.
Harlingen; FCAB; Rio Grande Building; 863.
Houston; FCAB; Experson Building; Charter 4-5633.
Lubbock; FCAB; 1312½ Avenue "J"; 7463.
Midland; FCAB; Thomas Building; 1658.
Paris; FCAB; First National Bank Building; 1720.
Port Arthur; FCAB; Adams Building; 2-4231.
San Angelo; FCAB; 2213 Houston Street; 4671.
San Antonio; FCAB; Gibbs Building; CA-6351.
Texarkana; FCAB; Texarkana National Bank Building; 1346.
Tyler; FCAB; Citizens National Bank Building; 4726.
Waco; FCAB; Professional Building; 4456.
Wichita Falls; FCAB; Waggoner Building; 4107.

UTAH

Ogden; FCAB; Eccles Building; 7769.
Salt Lake City; FCAB; Walker Bank Building; 3-3928.

VERMONT

Rutland; FCAB; 126 Merchants Row; 2025.

VIRGINIA

Bristol; FCAB; 112 Piedmont Avenue; 1047.
Danville; FCAB; Masonic Building; 2847.
Harrisonburg; FCAB; The National Bank Building; 784.
Lynchburg; FCAB; Allied Arts Building; 4249.
Newport News; FCAB; Chapin Building; 6-1626.
Norfolk; FCAB; Citizens Building; 4-8331.
Richmond; FCAB; American Building; 3-3521.
Roanoke; FCAB; Boxley Building; 5589.

WASHINGTON

Seattle; FCAB; Colman Building; Main 4244.
Spokane; FCAB; Mohawk Building; Main 3136.
Tacoma; FCAB; Washington Building; Broadway 2228.
Yakima; FCAB; Larson Building; 6109.

WEST VIRGINIA

Beckley; FCAB; Raleigh County Bank Building; 5941.
Bluefield; FCAB; Bradmann Building; 1896.
Charleston; FCAB; Peoples Exchange Building; Capital 30-161.
Clarksburg; FCAB; Union Bank Building; 605.
Huntington; FCAB; West Virginia Building; 28366.
Wheeling; FCAB; Riley Law Building; 1656.

WISCONSIN

Appleton; WAIC; Gloudemans Building; 7900.
Eau Claire; WAIC; Market Square Building; 21653.
Fond du Lac; UAC; National Exchange Bank Building; 5006.
Green Bay; WAIC; Columbus Building; Adams 241.
La Crosse; WAIC; Exchange Building; 2270.
Madison; WAIC; Insurance Building; Badger 978.
Milwaukee; UAC; 611 North Broadway; Daly 0672.
Racine; WAIC; 423 Main Street; Prospect 2444.
Rhinelander; WAIC; Merchants State Bank Building; 1122.
Wausau; WAIC; First American State Bank Building; 7474.

WYOMING

Casper; FCAB; 101 West First Street; 45.
Cheyenne; FCAB; Boyd Building; 4011.
Rock Springs; FCAB; Rock Springs National Bank Building; 32.
Thermopolis; FCAB; Mountain States Power Building; 271.

[Procurement Reg. 5]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

FOREIGN PURCHASES

In § 81.509 paragraph (b) is amended as follows:

§ 81.509 *Purchases from Canadian suppliers.* * * *

(b) *War Supplies Limited.* War Supplies Limited is a corporation wholly owned and controlled by the Government of Canada and created under the laws of the Dominion of Canada with its principal office in the city of Ottawa, Province of Ontario. A Washington Office is maintained at 1205 Fifteenth Street N. W., (Marshall Building), telephone Executive 2020, Extensions 120, 121, 196 and 556. The representatives of the Corporation in Washington are Mr. F. G. Rounthwaite, President and acting General Manager, and Mr. D. C. Cullen, Treasurer and Assistant Secretary.

* * * * *

[Procurement Reg. 6]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

INTERBRANCH AND INTERDEPARTMENTAL PURCHASES

Section 81.605d is amended as follows:

§ 81.605d *Indefinite quantity contracts executed by the Office of the Quartermaster General.* The tabulation set forth below contains certain information with respect to all indefinite quantity contracts executed by the Office of the Quartermaster General, which are applicable to purchases made by activities outside the jurisdiction of the Quartermaster General. More complete information as to these contracts is contained in the bulletins referred to in the tabulation. Some of these bulletins are Office of the Quartermaster General Contract Bulletins, referred to in the tabulations as Contract Bulletins. The last contract bulletin published was No. 2, dated 11 January 1944. Instructions and information theretofore published in contract bulletins have been published since 11 January 1944 in War Department supply bulletins, referred to in the tabulation of supply bulletins. If contract bulletins are not available at an Adjutant General Depot, they may be obtained by communicating with the General Administrative Services Division, Office of the Quartermaster General, Washington 25, D. C.

INDEFINITE QUANTITY CONTRACTS EXECUTED BY OFFICE OF QUARTERMASTER GENERAL

Bulletin number	Date	Commodity	Contract period	Contract symbol number	Contractor	Area serviced	Tax information	Applicability
Contract Bulletin No. 81.	1 July 1943..	Books.....	Fiscal year 1944..	See Contract Bulletin No. 81.....		Continental United States.....	Tax exclusive.....	General utilization by the War Department except the Medical Corps.
Contract Bulletin No. 95.	26 July 1943.	Compressed yeast.	Fiscal year 1944..	W 199 qm-33843.	Standard Brands Incorporated, 595 Madison Ave., N. Y., N. Y.	1st, 4th, 8th and 9th Service Commands.	Tax inclusive; in the event of an increase, decrease or elimination of the tax or charge which must be borne by the contractor, the contract price is increased or decreased, accordingly and any amount due the contractor as a result of such change is charged to the government, provided, however, that the government reserves the right to issue to the contractor, in lieu of such payment a tax exemption certificate.	All branches of the War Department.
				W 199 qm-33845.	National Grain Yeast Corp., 600 Mill St., Belleville, N. J.	3d Service Command, Military District of Washington.		
				W 199 qm-33846.	Red Star Yeast & Products Co., 221 E. Buffalo St. Milwaukee, Wis.	5th and 6th Service Commands.....		
				W 199 qm-33844.	Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, Mo.	2d and 7th Service Commands.....		
Contract Bulletin No. 133.	25 Oct. 1943.	Paper rolls, for cash registers.	Fiscal year 1944.	W 1013 qm-16091	Bradner Smith & Co., 33 South Desplaines St., Chicago, Ill.	Regions VII, VIII and IX as defined in Contract Bulletin.	Tax exclusive.....	All posts, camps and stations.
				W 1013 qm-16092.	The National Cash Register Co., Dayton, Ohio.	Regions I through VII as defined in Contract Bulletin and Brooklyn (for overseas shipment) Oakland, California (for overseas shipment) New Orleans (for overseas shipment) Charleston (for overseas shipment).		
Contract Bulletin No. 142.	1 Jan. 1944..	Oil, engine, lubricating, all purpose**.	1 Jan. 1944 to 30 June 1944.	49-001-qm-274...	The Texas Company.....	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia.	Tax exclusive; Contractor obtains Blanket Tax Exemption Certificate upon application to Washington Quartermaster Depot.	All War Department activities within continental United States for domestic consumption, exclusive of maneuvers ordered by Army Ground Force Headquarters.
				W 49-001 qm-276	Standard Oil Co., of California.....	Arizona, California, Idaho, Nevada Oregon, Utah, Washington.		
				W 49-001 qm-277	Shell Oil Co., Inc.....	Ohio.		
				W 49-001 qm-275	Standard Oil Co. (Indiana).....	Colorado, Illinois, Indiana, Iowa, Michigan Minnesota, Missouri, Montana, North Dakota, South Dakota, Wisconsin, Wyoming.		
				W 49-001 qm-278	Standard Oil Company of Nebraska.	Nebraska.		
Contract Bulletin No. 143	23 Dec. 1943	Malt *.....	1 Jan. 1944 to 31 Mar. 1944.	11-009 qm-12147	Malt-Diastase Company Wyckoff Ave. and Decatur St., Brooklyn, N. Y.	1st, 2nd and 3rd Service Commands; Military District of Washington.	Same tax clause under Contract Bulletin Number 95	All branches of the War Department
				11-009 qm-12145.	Anheuser-Busch, Inc. 721 Pestalozzi St., St. Louis, Mo.	4th Service Command.		
				11-009 qm-12146.	Pabst Sales Company, 221 North La Salle St., Chicago, Ill.	5th Service Command.		
				11-009 qm-12148.	Birk Bros. Brewing Co., Webster & Wayne Avenues, Chicago, Ill.	6th Service Command.		
				11-009 qm-12149.	Standard Brands Incorporated, 595 Madison Ave., N. Y., N. Y.	7th, 8th and 9th Service Commands.		

*W 11-009 qm-12147 (Ashford General Hospital, West Virginia).

**Attention is invited to contract Bulletin No. 1, 1 January 1944, for the period 1 January 1944 to 31 December 1944, listing contracts executed by Treasury Department, Procurement Division, for War Department requirements of greases and gear lubricants under Class 14 of Federal Standard Stock Catalogue.

In § 81.606 *Purchases under contracts of Procurement Division, Treasury Department,* the list of schedules in paragraph (g) *Mandatory schedules* is amended as follows:

The following items are deleted:

Description of Item	*Schedule of Supplies*
Greases and gear lubricants	14, Supplement No. 1 [Deleted]
Victory chairs	26, Part I, Supp. No. 1 [Deleted]
Common spline-seat chair	26, Part I, Supp. No. 2 [Deleted]

The following items are amended:

Description of item and schedule of supplies:	*Period*
Telephones and parts—17, Supp. No. 6	Sept. 1, 1941, to Aug. 31, 1942 (portion extended to Aug. 31, 1944).
* * * * * * *	
Wood furniture—26, Part I	Jan. 1 to Dec. 31, 1942 (portion extended to Dec. 31, 1944).
Wood furniture—26, Part I	Jan. 1 to Dec. 31, 1944.
* * * * * * *	
Steel insulated filing cabinets—26, Part II, Supp. No. 1	July 1, 1943 to Dec. 31, 1943 (extended to Dec. 31, 1944).
* * * * * * *	
Machine tools—40	Mar. 1 to Aug. 31, 1944.
* * * * * * *	
Portable drinking fountains—63, Supp. No. 1	Mar. 1, 1944 to Feb. 28, 1945.
* * * * * * *	
Household and quarters furniture (Part 1)	Jan. 1 to July 31, 1944.
Household and quarters furniture (Part 2)	Jan. 1 to July 31, 1944.
Household and quarters furniture (Part 3)	Jan. 1 to July 31, 1944.

NOTE: (1) Some of the schedules listed above are mandatory only upon some of the activities of the War Department. In case of doubt as to whether it is mandatory that a particular item be procured under a schedule, the schedule itself should be consulted and provisions of the schedule should be regarded as controlling.

(2) Attention is called to the provisions of § 81.1187. Items, the purchase of which is restricted by that paragraph, shall not be purchased except in accordance with the provisions of that paragraph even though they may be listed on the General Schedule of Supplies.

* * * * *

In § 81.608 (c) subparagraph (4) is added as follows:

§ 81.608 *Purchases from Federal Prison Industries, Inc., Department of Justice.* * * *

(c) *General clearance.* * * *

(4) *Amendment dated 19 January 1944.* Under date of 19 January 1944 Clearance No. C–23445 was amended so as to make the item of brushes in the list of available items read as follows:

Brushes: Floor sweeps only.

* * * * * *

In § 81.609 the list of envelopes in paragraph (b) is amended by the addition of two items at the end thereof.

§ 81.609 *Purchases under contracts of Post Office Department.* * * *

(b) *Envelopes authorized for supply to the military service.* (1) * * *

Item No.:	*Description*
* * * * *	
514	4⅛ by 9½ inches, White, Air Mail, red and blue border, lightweight with opaquing design inside.
(*)	4⅜ by 8⅛ inches, Kraft, open side, window (for War Bonds).

*There has been no Item No. assigned to this envelope.

* * * * *

[Procurement Reg. 8]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

FEDERAL, STATE AND LOCAL TAXES

In § 81.810 the list of applicable tax directives is amended by corrections for Illinois and Indiana.

§ 81.810 *Applicable tax directives.* * * *

Illinois	Jan. 11, 1944 (A. S. F. Cir. 13, 1944) June 26, 1942 (all manufacturing transactions),
Indiana	Apr. 28, 1943 (all transactions).

* * * * * * *

[Procurement Reg. 9]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

LABOR

Section 81.916 is amended as follows:

§ 81.916 *Basic law; Walsh-Healey Public Contracts Act.* Act of 30 June 1936 (49 Stat. 2036), as amended by the act of 13 May 1942 (56 Stat. 277); 41 U.S.C. 35–45; M. L., 1939, sec 747. The act of 30 June 1936 is quoted in "Rulings and Interpretations, September 29, 1939, Walsh-Healey Public Contracts Act," and the effect of the amendment of 13 May 1942 is explained in the Supplement to that publication (see §§ 81.917 (a) and 81.918 (a)).

In § 81.917 paragraphs (a) and (b) are amended as follows and paragraph (c) is deleted.

§ 81.917 *Applicability.* (a) Generally, the law is applicable to all contracts for the purchase of supplies when the amount thereof exceeds $10,000. The publication of the Department of Labor entitled "Rulings and Interpretations, September 29, 1939, Walsh-Healey Public Contracts Act," as supplemented by Supplement published 24 January 1944 (Cir. Let. No. 1–44, 4 February 1944, Dept. of Labor), and paragraph (b) of this section, contain detailed information as to the contracts which are subject to and those which are exempt from the Act.

(b) The following changes and additions to the regulations referred to in paragraph (a) of this section have been published:

(1) [Deleted]

* * * * *

(7) Contracts awarded for preserved or processed butter during the period from February 3, 1943, to the termination of the present war and three months thereafter are excepted from the representations and stipulations of section 1 of the act (8 F.R. 1652).

(8) Contracts awarded during the present war for the production of training films are excepted from the representations and stipulations required by section 1 of the act.

(9) Contracts awarded for certain canned and dehydrated fruits and vegetables are excepted from the representations and stipulations of section 1 of the act until 31 December 1944 (7 F.R. 10794; 9 id. 405).

(10) Contracts awarded for orange marmalade are excepted from the representations and stipulations of section 1 of the act until 31 December 1944 (8 F.R. 14353; 9 id. 405).

(11) Contracts awarded for dehydrated rutabagas are excepted from the representations and stipulations of section 1 of the act until 31 December 1944 (8 F.R. 14353; 9 id. 405).

(12) [Deleted]

* * * * * *

(15) [Deleted]

(16) [Deleted]

* * * * *

(c) *Contracts entered into between the War Department and other Government agencies.* [Rescinded]

In § 81.918 paragraph (a) is amended and paragraph (e) is rescinded.

§ 81.918 *General instructions.* (a) The regulations and instructions contained in "Rulings and Interpretations, September 29, 1939, Walsh-Healey Public Contracts Act", as supplemented by Supplement published 24 January 1944 (see § 81.917 (a)), and amendments thereto, and § 81.917 (b), will be complied with by all contracting officers. Chiefs of technical services are responsible for furnishing this publication and a supply of the forms referred to therein to each of their contracting officers. It is no longer necessary to obtain Form PC–1 from the Department of Labor (see § 81.292 (f)).

* * * * *

(e) [Rescinded]

Section 81.922 is amended as follows:

§ 81.922 *Men's hat and cap industry.* Manufacture or supply of men's hats and caps, including men's white sailor and other stitched cloth hats, men's fur-felt hats, men's uniform caps, and women's hats, men's uniform caps, and women's hats and caps of similar design and construction.

Date effective: 2 March 1944.

Wage: 67.5 cents an hour or $27.00 per week of 40 hours, arrived at either upon a time or piece-work basis.

(a) *Variation from minimum wage determination.* A tolerance of not more than 20 percent of the employee in any one factory, whose activities at any given time are subject to the provisions of the Walsh-Healey Public Contracts Act is granted for auxiliary workers in the Men's Hat and Cap Industry except that there shall be no limitation on the number or proportion of auxiliary workers employed in the uniform cap and stitched hat branches of the Industry, provided that any auxiliary workers in the Industry shall be paid not less than 40 cents an hour or $16 per week of 40 hours, arrived at either upon a time or piecework basis.

(b) *Definition of "auxiliary workers".* The term "auxiliary workers" as applied to the employees in the uniform cap and stitched hat branches of the Industry shall include only those employees engaged in auxiliary occupations enumerated and defined as follows:

(1) *Hand clipping.* The operation of separating component parts of the article after they have been sewn.

(2) *Hand cleaning.* The operation of removing excess threads from the article or removing stains or dust.

(3) *Size stamping.* The operating of stamping the head size mark on the article.

(4) *Floor boys (girls).* One who carries items of work to and from the various departments.

(5) *Examining.* The operation of inspecting the article for imperfections during any stage of manufacture.

(6) *Sweat band, braid, and strap cutter and measuring.* The operation of measuring and cutting bands, straps and ribbons.

(7) *Turning.* The operation of turning the article inside out or outside in.

(8) *Packing.* The operation of packing the finished caps into shipping containers, spraying larvex or moth flakes; if necessary, inserting tissue paper in caps and inserting a cardboard ring stiffener to support crown of cap.

(9) *Shipping and receiving.* The operation of unloading and checking stock and preparing containers for shipment.

(10) *Waste material sorting.* The operation of separating paper from the rags whether performed in the cutting room or elsewhere.

(11) *Hand stapling.* The operation by hand pressure of a wire stapling machine to join together parts of the article, to attach labels, bowls or cloth to the article or part of the article, or to join ends of a cardboard strip to form a packing ring.

(12) *Drawstring pulling.* The operation of slipping a cord or drawstring through part of a cap, hood or helmet.

(13) *Basting pulling.* The operation of pulling out basting threads.

(14) *Porter.* The operation of cleaning floors or carrying boxes.

(15) *Band and braid fitting.* The operation of placing by hand but not sewing on a cap, a prepared band or braid.

(16) *Wire stiffener inserting.* The operation of slipping a wire ring into the cap.

(17) *Hand buckling.* The operation of slipping a buckle on a strap.

(18) *Visor inserting.* The operation of inserting a canvas stiffener into a cloth pocket before the visor is attached.

(19) *Pasting.* The operation of attaching a label or ticket to a part of hat with paste or glue.

(20) *Hand button inserting.* The operation of inserting, by hand, into a prepared hole a button and bending over-clips to hold the button in place, or inserting a button with a threaded neck, and screwing a nut on neck to hold button firm.

(21) *Hand hole punching.* The operation of punching a hole into material by use of an ice pick or similar pointed hand instrument.

(22) *Wire cutting and ring forming.* The operation of cutting a wire to length and joining the ends to form a stiffener ring.

(23) *Hand eyeletting.* The operation by hand pressure of a machine to attach an eyelet to the article.

(24) *Hand snap fastening.* The operation by hand pressure of a machine to attach a snap fastener to the article.

Section 81.961b is added as follows:

§ 81.961b *Fair Labor Standards Act of 1938*—(a) *Basic law.* (1) The act establishes minimum wages and maximum hours for employees engaged in commerce or in the production of goods for commerce, and restricts the use of child labor. Only those provisions of the act relating to minimum wages and maximum hours as they effect cost-plus-a-fixed-fee contractors are dealt with in this procurement regulation.

(2) Section 6 (a) requires every employer to pay to each of his employees (except home-workers in Puerto Rico and the Virgin Islands) "who is engaged in commerce or in the production of goods for commerce" not less than 30 cents per hour or, if the Administrator of the Wage and Hour Division of the Department of Labor in accordance with the act shall have prescribed some other rate, not less than the rate (not in excess of 40 cents per hour) so prescribed by the Administrator.

(3) Section 7 (a) prohibits every employer from employing any of his employees "who is engaged in commerce or in the production of goods for commerce" for a workweek longer than 40 hours, unless such employee receives compensation for his employment in excess of such 40-hour workweek at a rate not less than one and one-half times the regular rate at which he is employed. Employment pursuant to bona fide collective bargaining agreements providing for employment for not more than 1000 hours during any period of 26 consecutive weeks or for not more than 2080 hours during any period of 52 consecutive weeks, and employment for a period or periods of not more than 14 workweeks in the aggregate in any calendar year in an industry found by the Administrator to be of a seasonal nature will not constitute a violation of section 7 (a), if employees receive compensation for employment in excess of 12 hours in any workday or in excess of 56 hours in any workweek at a rate not less than one and one-half times the regular rate at which they are employed. Neither does section 7 (a) apply, under stated circumstances, to employees engaged in processing certain perishable products. (Act of June 25, 1938, 52 Stat. 1060, 29 U.S.C., sec. 201–219 (Supp. 1939); as amended by 53 Stat. 1266; 54 Stat. 615; and Act of October 29, 1941 (77th Cong. 1st sess.).)

(b) *Exceptions.* The provisions of sections 6 and 7 do not apply with respect to:

(1) Any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator); or

(2) Any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce; or

(3) Any employee employed as a seaman; or

(4) Any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

(5) Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or by-products thereof; or

(6) Any employee employed in agriculture; or

(7) Any employee to the extent that such employee is exempted by regulations or orders of the Administrator issued under section 14 (which permits the issue of regulations and certificates allowing learners, apprentices, messengers and individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury to be employed for lower wages than those prescribed by section 6); or

(8) Any employee employed in connection with the publication of any weekly or semiweekly newspaper with a circulation of less than three thousand the major part of which circulation is within the county where printed and published; or

(9) Any employee of a street, suburban, or interurban electric railway, or local trolley or motor bus carrier; or

(10) To any individual employed within the area of production (as de-

fined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

(11) Any switchboard operator employed in a public telephone exchange which has less than five hundred stations.

(c) *Regulations of the Administrator.* The act provides that the Administrator shall by regulation define certain terms used in the act and may grant certain exemptions from its provisions. Regulations issued by the Administrator, as revised from time to time, should be consulted in these respects.

(d) *Liability of employer.* Any employer who violates the provisions of section 6 or 7 of the act is liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, and in an additional equal amount as liquidated damages; and, in the event the employee institutes suit therefor, the costs of the action and a reasonable attorney's fee as allowed by the court. Violations also may be restrained by injunction and may subject the employer to criminal penalties.

(e) *Reimbursement of cost-plus-a-fixed-fee contractors for payments in accordance with the act.* Minimum wages and overtime payments paid currently in accordance with the act are reimbursable to cost-plus-a-fixed-fee contractors as labor costs. Cost-plus-a-fixed-fee contractors also may be reimbursed, in proper cases, amounts paid in settlement of claims for overtime subsequently asserted by his employees. (See paragraph (g) of this section for the administrative procedure to be followed in respect of such of said subsequently asserted claims as are made the subject of an investigation by the Administrator and § 81.1120 (c) of this chapter for the administrative procedure to be followed to determine the position of the Government in suits for such claimed overtime brought against cost-plus-a-fixed-fee contractors.) Attention is called to the Comptroller General's opinion to the Secretary of War of 15 December 1943 (B–38642) to the effect that amounts paid in settlement of such claims may be reimbursed even though the settlements necessitated a compromise of disputed questions of law or fact, *Provided,* That such settlements are in amounts less than the total amounts (including liquidated damages, court costs and attorneys fees) which would be required to be paid in the event the employee sued and obtained judgment and that it is administratively determined that the settlement in each instance was fully warranted as being in the best interest of the Government. Vouchers covering such payments should be supported by evidence setting forth the basis for such administrative determination and any questions of law with respect to the application of the act should be determined by the contracting officer only after thorough consideration has been given the matter by competent Government attorneys or by private attorneys engaged to represent the contractors if the former are not available, and a showing to that effect should also be made a part of the evidence submitted with the vouchers.

(f) *Investigations and inspections of records by the Administrator.* Employers subject to the act or any order issued thereunder must make and preserve such records of the persons employed by him and of the wages, hours and other conditions and practices of employment maintained by him, and make such reports therefrom, as the Administrator shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of the act or his regulations or orders thereunder. The act provides that the Administrator or his designated representatives may investigate and gather data regarding the wages, hours and other conditions and practices of employment in any industry subject to the act and may enter and inspect such places and such records, question such employees and investigate such facts, conditions, practices or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of the act, or which may aid in the enforcement of the provisions of the act.

(g) *Investigations of cost-plus-a-fixed-fee contractors.* (1) The Under Secretary of War, by memorandum dated 15 December 1943 to the Commanding Generals of the Army Air Forces and the Army Service Forces, has directed, with respect to investigations of cost-plus-a-fixed-fee contractors of the War Department, that: To the extent consistent with the security and other regulations governing admission of visitors to plants and projects, representatives of the Administrator should be accorded access to the facilities and records of War Department contractors for the purpose of making investigations to determine applicability of a compliance with the act. Investigations will be conducted at such time and in such manner as to interrupt or interfere least with operations. They should be confined wherever possible to the inspection of records in the office of the contractor. Inspections of the areas in the facility where construction or production is in progress will be held to a minimum. Necessary interviewing of employees should, wherever possible, be conducted outside work hours or at such other times as will interfere least with construction or production operations.

(2) The Administrator has stated that his investigators will advise cost-plus-a-fixed-fee contractors approximately one week before they plan to arrive at the project to make an investigation under the act. The War Department representative at the plant will see that the investigation is conducted in accordance with such directive of the Under Secretary of War.

(3) If the Administrator is of the opinion that any such investigation discloses violation of sections 6 or 7 of the act, he will transmit a report of the investigation to the Director, Industrial Personnel Division, Headquarters, Army Service Forces, who will transmit it to the appropriate technical service. The technical service will cause the matter to be examined into and, if such examination confirms such violation, will advise the contractor to take appropriate steps to comply with the law. The technical service promptly will report to the Director, Industrial Personnel Division, Headquarters, Army Service Forces, as to its examination into the matter and as to the action taken. If the question as to whether a violation exists depends upon a construction of a provision of the act which has not been construed by the courts or under the procedure provided in the agreement referred to in paragraph (c) of § 81.1120 of these procurement regulations, the Judge Advocate General will be consulted as to the construction to be followed.

In § 81.979 (a) (1) Regions VI and VII are amended as follows:

§ 81.979 *Jurisdiction and procedure of Regional War Labor Boards.* * * *

(a) *Constitution of regions and regional War Labor Boards.* (1) A regional war labor board has been established in each of the following regions:

* * * * *

Region VI: Illinois, Indiana, Wisconsin, Minnesota, North Dakota, South Dakota, 222 W. Adams Street, Room 533, Chicago, Ill.

Region VII: Missouri, Arkansas, Kansas, Iowa, Nebraska. 11th Floor, Fidelity Building, 911 Walnut Street, Kansas City, Mo.

* * * * *

The regulations formerly contained in paragraph (b) of § 81.980p are now contained in § 81.980bb. A new paragraph (b) is added as follows:

§ 81.980p *General Order No. 16.* * * *

(b) *Interpretation No. 1 to General Order No. 16.* Wage adjustments required by State statutes which prohibit wage discrimination between the sexes are "adjustments which equalize the wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operations" within the meaning of General Order No. 16, and may be made without approval of the National War Labor Board.

* * * * *

Section 81.980z is amended as follows:

§ 81.980z *General Order No. 26.* (a) Organizations established as nonprofit community chest funds, foundations or cemetery companies, and organizations operated without profit and exclusively for religious, charitable, scientific, literary or educational purposes, which have been exempted from the payment of incomes and social security taxes (including nonprofit organizations which maintain and operate hospitals), shall be exempt from the necessity of filing applications for approval of wage and salary adjustments of their employees within the jurisdiction of the National War Labor Board.

(b) Such organizations will, nevertheless, be expected to observe and abide by the national wage and salary stabilization policy in making any adjustments

in the wages or salaries of their employees.

(c) The Regional War Labor Boards may recommend to the National War Labor Board such exceptions to the provisions of this order as are necessary to effectuate the wage and salary stabilization policies of the National War Labor Board, which exceptions, if approved by the National War Labor Board, shall, unless otherwise specified, apply only within the territorial jurisdiction of the Regional Board making the recommendation.

Section 81.980bb is redesignated § 81.980cc and a new § 81.980bb is added. (This was formerly § 81.980p (b)).

§ 81.980bb *General Order No. 30.* In accordance with the provisions of section 4 of Title II of Executive Order 9250, increases in wage or salary rates which do not bring such rates above 40¢ per hour may be made without the approval of the National War Labor Board.

§ 81.980cc *General Order No. 31.* * * *

In § 81.990 paragraph (b) is redesignated (c) and a new paragraph (b) is added:

§ 81.990 *Joint statement on employment of aliens.* * * *

(b) *Anti-discrimination contract clause.* The anti-discrimination clause (see paragraph 325) required in contracts under the provisions of Executive Order No. 9346 issued under date of 27 May 1943 (see this Procurement Regulation No. 9, § 81.990) prohibits discrimination against any employee or applicant for employment because of "national origin". This is construed as prohibiting discrimination based on noncitizenship as well as discrimination based on country of origin.

(c) *Procedure.* * * *

FAIR EMPLOYMENT PRACTICE

Sections 81.994 and 81.994a are added as follows:

§ 81.994 *Executive Order No. 9346.* The following is the full text of Executive Order No. 9346, issued under date of 27 May 1943:

EXECUTIVE ORDER FURTHER AMENDING EXECUTIVE ORDER NO. 8802 BY ESTABLISHING A NEW COMMITTEE ON FAIR EMPLOYMENT PRACTICE AND DEFINING ITS POWERS AND DUTIES

In order to establish a new Committee on Fair Employment Practice, to promote the fullest utilization of all available manpower, and to eliminate discriminatory employment practices, Executive Order No. 8802 of June 25, 1941, as amended by Executive Order No. 8823, of July 18, 1941, is hereby further amended to read as follows:

WHEREAS the successful prosecution of the war demands the maximum employment of all available workers regardless of race, creed, color, or national origin; and

WHEREAS it is the policy of the United States to encourage full participation in the war effort by all persons in the United States regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the nation can be defended successfully only with the help and support of all groups within its borders; and

WHEREAS there is evidence that available and needed workers have been barred from employment in industries engaged in war production solely by reason of their race, creed, color, or national origin, to the detriment of the prosecution of the war, the workers' morale, and national unity:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States and Commander in Chief of the Army and Navy, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of any person in war industries or in Government by reason of race, creed, color, or national origin, and I do hereby declare that it is the duty of all employers, including the several Federal departments and agencies, and all labor organizations, in furtherance of this policy and of this Order, to eliminate discrimination in regard to hire, tenure, terms or conditions of employment, or union membership because of race, creed, color, or national origin.

It is hereby ordered as follows:

1. All contracting agencies of the Government of the United States shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin and requiring him to include a similar provision in all subcontracts. [See § 81.325.]

2. All departments and agencies of the Government of the United States concerned with vocational and training programs for war production shall take all measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin.

3. There is hereby established in the Office for Emergency Management of the Executive Office of the President a Committee on Fair Employment Practice, hereinafter referred to as the Committee, which shall consist of a Chairman and not more than six other members to be appointed by the President. The Chairman shall receive such salary as shall be fixed by the President not exceeding $10,000 per year. The other members of the Committee shall receive necessary traveling expenses and, unless their compensation is otherwise prescribed by the President, a per diem allowance not exceeding twenty-five dollars per day and subsistence expenses on such days as they are actually engaged in the performance of duties pursuant to this Order.

4. The Committee shall formulate policies to achieve the purposes of this Order and shall make recommendations to the Order and shall make recommendations to the various Federal departments and agencies and to the President which it deems necessary and proper to make effective the provisions of this Order. The Committee shall also recommend to the Chairman of the War Manpower Commission appropriate measures for bringing about the full utilization and training of manpower in and for war production without discrimination because of race, creed, color, or national origin.

5. The Committee shall receive and investigate complaints of discrimination forbidden by this Order. It may conduct hearings, make findings of fact, and take appropriate steps to obtain elimination of such discrimination.

6. Upon the appointment of the Committee and the designation of its Chairman, the Fair Employment Practice Committee established by Executive Order No. 8802 of June 25, 1941, hereinafter referred to as the old Committee, shall cease to exist. All records and property of the old Committee and such unexpended balances of allocations or other funds available for its use as the Director of the Bureau of the Budget shall determine shall be transferred to the Committee. The Committee shall assume jurisdiction over all complaints and matters pending before the old Committee and shall conduct such investigations and hearings as may be necessary in the performance of its duties under this Order.

7. Within the limits of the funds which may be made available for that purpose, the Chairman shall appoint and fix the compensation of such personnel and make provision for such supplies, facilities, and services as may be necessary to carry out this Order. The Committee may utilize the services and facilities of other Federal departments and agencies and such voluntary and uncompensated services as may from time to time be needed. The Committee may accept the services of State and local authorities and officials, and may perform the functions and duties and exercise the powers conferred upon it by this Order through such officials and agencies and in such manner as it may determine.

8. The Committee shall have the power to promulgate such rules and regulations as may be appropriate or necessary to carry out the provisions of this Order.

9. The provisions of any other pertinent Executive order inconsistent with this Order are hereby superseded.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 27, 1943.

§ 81.994a *Interpretations of Executive Order 9346.* Pursuant to the authority vested in it by Executive Order No. 9346, the Committee on Fair Employment Practice, in order to effectuate the purposes of the order, has issued certain interpretations under the order. Such interpretations are set forth in succeeding paragraphs.

(a) *Contracts.* (1) The words "all contracts hereafter negotiated or renegotiated" include all contracts made, amended or modified.

(2) A non-discrimination provision is required in leases, grants or easements, right of way, etc., to the same extent that it is required in other contracts.

(3) The obligation to include the non-discrimination clause exists even though the contract involves non-war activity.

(4) The obligation to include the non-discrimination clause exists even though the contract is required to be awarded to the lowest bidder.

(5) The obligation to include the non-discrimination clause exists even though the contract is between a Federal Government agency and a state agency or subdivision of a state.

(6) The obligation to include the non-discrimination clause does not depend on the amount of money or other consideration involved in the performance of the contract.

(7) The non-discrimination provision required does not refer to, extend to or cover the activities or business of the contractor which are not related to or involved in the performance of the contract entered into.

(8) Inclusion of a non-discrimination provision is not required in contracts the performance of which does not involve the employment of persons.

(9) Inclusion of a non-discrimination provision is not required in contracts with foreign contractors for work to be performed outside the continental or territorial limits of the United States where no recruitment of workers within the said limits of the United States is involved.

(b) *Employment of aliens.* See § 81.990 of this Procurement Regulation No. 9, relating to employment of aliens, particularly paragraph (b).

[Procurement Reg. 11]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

MISCELLANEOUS PURCHASE INSTRUCTIONS

Paragraph (c) is added to § 81.1120, as follows:

§ 81.1120 *Procedure for handling litigation involving cost-plus-a-fixed-fee contractors.* * * *

(c) *Procedure to determine legal position to be taken in suits based upon Fair Labor Standards Act of 1938.* (1) In order that any differences of opinion between the War or Navy Departments and the Department of Labor as to the legal position which should be taken by the Government in suits against cost-plus-a-fixed-fee contractors based upon the Fair Labor Standards Act may, be resolved, the War Department, the Navy Department, the Department of Labor and the Department of Justice have entered into the following agreement as to the administrative procedures to be followed to determine the position to be taken by the Government in such suits:

MEMORANDUM OF AGREEMENT ON UNIFORM ADMINISTRATIVE PROCEDURES

1. *Purposes:* The procedures herein outlined are provided in order to:

(a) Secure in the disposition of litigated claims settled and uniform application of the Fair Labor Standards Act to the types of work performed by cost-plus-a-fixed-fee contractors.

(b) Obtain either an effective and economical defense by the Department of Justice against claims under the Fair Labor Standards Act, or the quick payment of such claims, depending upon whether such claims are determined pursuant to these procedures to be valid or invalid; and

(c) Establish a method for handling claims which is fair and equitable in protection of the claimant, the United States, and the cost-plus-a-fixed-fee contractor.

2. *Definitions:* For purpposes of this agreement, the term—

(a) "Contracting Agency" means the War Department, or the Navy Department, as the case may be.

(b) "Cost-Plus-a-Fixed-Fee Contractor" means a contractor who has entered into a contract with a contracting agency, acting in its own behalf, or in behalf of the United States, pursuant to which the contracting agency, or the United States, is obligated to pay the labor costs of the work performed under the contract.

(c) "Claim" means a suit based upon the Fair Labor Standards Act for additional payments for work performed for a cost-plus-a-fixed-fee contractor; and the term "claimant" means a person by whom or on whose behalf such suit is instituted.

3. *Prompt Investigation, Determination, and Payment of a Valid Claim:* Claims will be immediately investigated by the contracting agency. If in the judgment of the contracting agency the claim should be paid, the United States Attorney will be promptly notified and he will effect settlement of the claim and disposition of the suit. If such is not the judgment of the contracting agency, the claim, together with the contracting agency's recommendation and report of the investigation, will be referred to the appropriate regional office of the Wage and Hour Division for such further and prompt investigation as may be necessary, and for determination. Contemporary or joint investigations will be held by both agencies, when found feasible.

4. *Review of Determination of the Regional Office of the Wage and Hour Division:* Within ten days after notice of the determination of the regional office of the Wage and Hour Division, the contracting agency may, if dissatisfied with, and unwilling to settle on the basis of the determination of the regional Office of the Wage and Hour Division, appeal to the Wage and Hour Administrator for his final determination of the claim. If part or the whole of the claim is found valid by the Administrator, the United States Attorney will effect settlement of the claim and disposition of the suit accordingly, except that if the contracting agency should conclude that the determination of the Administrator is in its view so clearly unsound as to render assent thereto improper, such agency may elect not to be bound by such determination and to proceed as provided in Paragraph 5.

5. *Participation of the Department of Justice in Discussions:* At the instance of either contracting agency or of the Administrator, the Department of Justice will, if the case appears sufficiently important and the legal issues sufficiently doubtful, join in any discussion among the parties preceding the determination of the Administrator and will informally accord to the parties the benefits of its views on the legal issues. It is understood that the Department of Justice is not intended to act as an appellate tribunal and that requests for its participation in discussions will be limited to the few important and doubtful cases. Each case in which a contracting agency has elected, pursuant to Paragraph 4, not to be bound by a determination of the Administrator shall be made the subject of discussion with the Department of Justice. Whenever any such case is the subject of discussion with the Department of Justice that Department may determine the Government's litigation position. If the Department of Justice makes such determination the action of all parties hereto with respect to the disposition of the particular case shall be in accord with the determination of the issues so made. In the event the Department of Justice declines in such cases to make such determination of the issues, the Department may decide not to provide further legal representation in any litigation of such case, in which event the cost-plus-a-fixed-fee contractor shall be represented by private counsel and neither the Administrator nor the contracting agency nor any of their representatives shall appear or participate in the litigation.

6. *Suits on Claims Against Cost-Plus-a-Fixed-Fee Contractors To Be Handled by the Department of Justice:* The Department of Justice will have its United States Attorneys appear for cost-plus-a-fixed-fee contractors in all suits on claims filed against them, and will seek extensions of time sufficient to permit the foregoing procedures to operate. Subject to the Attorney General's usual discretion to avoid untenable positions in court, the conduct of such litigation will be in conformity with the administrative determinations made pursuant to such procedures.

7. *Duration:* The procedures provided in this agreement are recognized as experimental in nature, and any signatory hereto shall be free to withdraw from this agreement. In the absence of such withdrawal, the procedures shall endure until the purposes set forth in Paragraph 1 are accomplished.

(2) The Under Secretary of War by memorandum dated 15 December 1943, to the Commanding Generals of the Army Air Forces and the Army Service Forces, with reference to the above agreement, directed that:

To carry out the purposes of the agreement the procedure set forth below will be followed:

(a) The Judge Advocate General will be notified, as provided in AR 410-5 and other applicable regulations, promptly upon receipt of notice that suit based upon the Fair Labor Standards Act has been filed against a War Department cost-plus-a-fixed-fee contractor. He will request the Attorney General to direct the United States District Attorney to appear in the suit on behalf of the contractor and to obtain the extension of time contemplated by Paragraph 5 of the agreement.

(b) The Judge Advocate General will determine the position of the War Department in respect of such suits, to the same extent as in other cases referred to him under AR 410-5, and will further determine which cases should be appealed by the War Department to the Wage & Hour Administrator or the Attorney General, pursuant to the provisions of the attached agreement. He will also represent the War Department in all such appeals.

(3) In conformity with the above agreement and directive, upon notification of the institution of a suit based upon the Fair Labor Standards Act against a cost-plus-a-fixed-fee contractor as provided in paragraph (b) of this section, the Judge Advocate General will request the Attorney General to direct the United States District Attorney to appear in the suit on behalf of the contractor and to obtain the extension of time contemplated by paragraph 5 of the agreement. The technical service promptly will make or cause to be made such investigation as may be necessary to ascertain the precise nature of the work performed by the complaining employee during the period for which he seeks additional compensation, and promptly will report such information and such other information as the Judge Advocate General may request to the Judge Advocate General with the technical service's recommendation as to the position to be taken by the War Department in respect of the suit. Such investigation as to the nature of the employee's employment during the period may be made in collaboration with an investigator of the Wage and Hour Division of the Department of Labor in any case in which the technical service deems this appropriate.

(4) The Judge Advocate General will determine which claims in litigation shall be referred to the Department of Labor for the further investigation and for determination as permitted by paragraphs 3 and 4 of the agreement and which claims shall be referred by the War Department to the Department of Justice as permitted by paragraph 5 of the agreement, and will represent the War Department in connection therewith.

(5) In those cases in which the Department of Justice determines the legal position to be taken by the Government and decides that the claim should be litigated, it will conduct the litigation in accordance with the course of action determined upon as provided in the agreement. Should the Department of Justice refuse to determine the legal position to be taken by the Government

and should the Judge Advocate General decide that the claim should be litigated, he will so advise the technical service in order that private counsel may be engaged to represent the contractor. Attention is called to 22 Comp. Gen. 993 to the effect that cost-plus-a-fixed-fee contractors in proper cases may be reimbursed the reasonable and necessary costs, including attorneys' fees, incurred in the defense of such suits. (See also the Comptroller General's opinion to the Secretary of War of 15 December 1943 (B-38642) affirming such position.)

(6) The Judge Advocate General will advise the technical services as to claims which it has been determined should be compromised rather than litigated. Attention is called to the Comptroller General's opinion to the Secretary of War of 15 December 1943 (B-38642) to the effect that the War Department properly may, upon proper administrative determination as therein indicated that the settlement in each instance was fully warranted as being in the best interest of the Government, reimburse contractors for payments to employees in settlement of claims for overtime asserted in section 7 of the Fair Labor Standards Act, in amounts less than the total amounts which would be required to be paid in the event adverse judgments were obtained, even if the consummation of the settlement necessitated adjustment of disputed questions as to the amounts of overtime involved as well as questions pertaining to the application of the act.

In § 81.1187 the final paragraph is amended to read as follows:

§ 81.1187 *Restrictions on purchases of selected items for the duration of the war.* * * *

The purchase of the items referred to in the circular set forth in this section, is prohibited for the duration of the war except for essential war needs. No such item will be purchased without the prior approval of the Director, Purchases Division, Headquarters, Army Service Forces. Requests for such approval will be forwarded through channels and must be accompanied by a complete statement of facts showing that the proposed purchase is for an essential war need.

[Procurement Reg. 12]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

RENEGOTIATION AND PRICE ADJUSTMENT

NOTE: The Revenue Act of 1943, enacted 25 February 1944, completely revises the statutory provisions governing renegotiation (see Revenue Act of 1943, Title VII). This enactment will require substantial changes in the related procurement regulations: §§ 81.342, 81.1201 to 81.1214, and 81.1290 to 81.1292, inclusive. Amended regulations will be issued at an early date.

In § 81.1243 paragraph (h) is amended as follows:

§ 81.1243 *Use of articles.* * * *

(h) Form I or Form II will be used only with the permission of the Director, Purchases Division, Headquarters, Army Service Forces. Each request for such permission (1) will show that the principles set forth in the foregoing paragraphs of this § 81.1243 were applied by the contracting officer, (2) will be sufficiently full and detailed to enable the Director to determine whether the proposed use of the article conforms to these principles, and (3) will show specifically, the effect of the proposed use of the article on the prices and profits of the contractor under the contract.

[Procurement Reg. 13]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

FORMS OF CONTRACTS

In § 81.1316 Article III-E of the contract form is amended to read as follows:

§ 81.1316 *W. D. Contract Form No. 16.* * * *

ART. III-E. *Changes.* 1. The Contracting Officer may at any time, by a written order, and without notice to the sureties, make any changes in this contract which may either increase or decrease the services hereunder. If such changes cause an increase or decrease in the services required under this contract, or in the time required for its performance, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim for adjustment under this article must be asserted within 10 days from the date the change is ordered: *Provided, however,* That the Contracting Officer, if he determines that the facts justify such action, may receive and consider, and with the approval of the Secretary of War or his duly authorized representative, adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Article III-D, but nothing provided in this article shall excuse the Architect-Engineer from proceeding with the prosecution of the work so changed.

[Procurement Reg. 16]

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

PRIORITIES

In § 81.1641 paragraph (b) is amended to read as follows:

§ 81.1641 *Other construction.* * * *

(b) Construction other than that included in the above, may be assigned preference ratings only by the War Production Board. Applications for preference ratings should be submitted on Form WPB-617. If the application covers a project of less than $25,000 it may be rated by a War Production Board field office.

* * * * *

Section 81.1648 is amended, the headnote being changed, as follows:

§ 81.1648 *MRO procurement by the Army.* (a) Maintenance, repair, and operating supply items, referred to as MRO, including capital additions not exceeding $500 in value, may be assigned preference ratings by following a simplified procedure which is based on CMP Regulations 5 and 7. A preference rating may be assigned by placing on the purchase order or contract for maintenance, repair, and operating supply items, the preference rating, identification symbol, and certification statement, as follows:

AA-1-W-MRO. The use of the preference rating or symbol on this order by the undersigned as a procuring Claimant Agency is authorized under applicable CMP Regulations.

This method of rating purchases may not be used in connection with regularly programmed MRO items which are those included in the Army Supply Program and which are rated by the PD-3A procedure.

(b) The quantity limitations of paragraph f of CMP Regulation 5 are not applicable to purchases of MRO by the Army.

(c) Priorities Regulation No. 3 of the War Production Board includes a list of items to which preference ratings may not be assigned by use of the certification statement of CMP Regulation No. 5 shown above. If it is necessary to assign a rating to an item on List B of Priorities Regulation No. 3, a PD-3A certificate and an AA-1 rating as specified in the ANMB Priorities Directive may be used.

Section 81.1650 is rescinded.

§ 81.1650 *MRO procurement of services.* [Rescinded]

[Procurement Reg. 7]

PART 83—DISPOSITION OF SURPLUS AND UNSERVICEABLE PROPERTY

DISPOSITION OF PROPERTY

In § 83.706 the final clause is amended by deleting the words "through channels", so as to read as follows:

§ 83.706 *Written contracts of sale, numbering and distribution thereof.* * * * ; and (b) the original signed number of each unnumbered contract of sale will be forwarded to the General Accounting Office instead of being sent to the disbursing officer, as in the case of unnumbered contracts of purchase.

[Procurement Reg. 15]

PART 88—TERMINATION OF CONTRACTS

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

Section 88.15-310 is amended as follows:

§ 88.15-310 *Amendments to insert provisions for negotiated settlement.* (a) Whenever it is proposed or contemplated that a lump sum supply contract which contains a termination article be wholly or partially terminated, the contract will be scrutinized by the contracting officer to determine whether it contains the uniform termination article for use in lump sum supply contracts (§ 81.324) which provides for a negotiated settlement of the amount due with respect to the termination and certain other important provisions not in some earlier forms of the termination article (see § 88.15-301a and note to that section).

(b) Where the termination article does not conform to the uniform article set out in § 81.324 the contracting officer, prior to serving the notice of termination,

will attempt to amend such contract to include the uniform article by supplemental agreement. The assent of all sureties and guarantors, if any, to each such supplemental agreement should be obtained. The consent of any assigned should also be obtained if possible. A form of appropriate supplemental agreement is set out in § 88.15–926. Such amendments are permitted at the times and under the conditions set forth in § 88.15–107. However, emphasis is placed upon the fact that such amendments wherever reasonably possible should be completed prior to the giving of a formal notice of termination.

(c) If such an amendment can be effected, termination will take place pursuant to the uniform termination article (§ 81.324).

(d) If no such amendment can be effected, settlement will be made pursuant to the termination article in fact in the contract.

(e) If at any stage of the settlement procedure, the contracting officer and the contractor reach an agreement as to a negotiated settlement of the amount payable on account of a contract which does not then contain a uniform termination article, an amendment may then be made to embody the uniform termination article in the contract by supplemental agreement. Thereafter and by separate supplemental agreement the settlement which has been reached may be concluded.

Section 88.15–322 is amended as follows:

§ 88.15–322 *Commencement of negotiations; initial conference with the contractor at the time of the service of the termination notice.*[1] (a) In the case of each termination of a substantial contract, at the time of service of the termination notice, or as promptly as possible thereafter, a conference should be held with the contractor to negotiate the general outlines to be followed in making settlement and to develop a definite program to be followed by all parties participating in the work of settlement. Negotiations should be carried out at this conference sufficiently completely so that the basic terms on which settlement is to be effected are at least tentatively determined and so that there is a clear understanding as to what information is to be furnished by the contractor, what methods are to be pursued in disposing of property, what the general principles of settlements are to be and what accounting or other investigation is to be undertaken.

[1] The furnishing of advice (in the ordinary routine of operations) on the procedures and methods to be employed by the contractor and subcontractors in connection with the termination and its settlement and in determining and presenting statements of termination charges is a part of the official duty of Government personnel performing functions in connection with termination settlements and is not regarded as in any way in conflict with Criminal Code, sec. 109; 18 U.S.C. 198.

(b) The importance of this initial conference is emphasized by the memorandum of the Under Secretary of War dated 10 February 1944 reprinted at § 88.15–422. Special attention is directed to paragraph 2 of that memorandum. This conference should be regarded as an important step in the negotiation of a settlement and every effort should be made at that time to dispose of as many questions as possible by agreement.

(c) It is important that all interested groups in the office of the contracting officer should be represented at the initial conference. This will normally include the principal representative of the contracting officer, hereinafter mentioned, and also appropriate negotiating, technical, engineering, legal and accounting personnel. At or before the initial conference some one person will be designated by the contracting officer as his principal representative in connection with the particular termination, but it should be made wholly clear to the contractor that such representative is not authorized to agree finally upon a supplemental agreement making settlement of the amount, if any, due by reason of the termination. The contracting officer's representative should be given authority, either general or limited,

(1) To approve dispositions of property,

(2) To approve settlements with subcontractors up to some stated amount,

(3) To pass upon the miscellaneous minor questions which inevitably arise in connection with a termination settlement,

(4) To negotiate a settlement subject to any required approval.

(d) It is good practice, although not always necessary, to have a statement of the scope of the authority of the contracting officer's principal representative reduced to writing. In appropriate cases, to avoid misunderstandings, a copy should be furnished to the contractor.

(e) At this conference, if no conference prior to termination has been held, the various matters mentioned in § 88.15–312 should be covered thoroughly. In addition the contracting officer's representative should be certain that the contractor understands fully his obligations as outlined in § 88.15–321.[1] Particular emphasis should be placed on the following matters:

(1) Termination of subcontracts and purchase orders.

(2) Settlement of claims of subcontractor and the methods of review thereof to be employed by the prime contractor.

(3) A program for the disposition of property acquired for the terminated contract:

(i) By the contractor.

(ii) By or for his subcontractors.

(4) The responsibilities to the War Manpower Commission and to employees mentioned in § 88.15–324.

(f) In some cases, the contracting officer may wish to examine the physical inventory at once and to check it against book inventory.

In § 88.15–350 paragraphs (a) and (d) are amended as follows:

§ 88.15–350 *Sale of property*—(a) *Contract provision.* The uniform termination article for use in lump sum supply contracts (§§ 81.324; 88.15–901) provides in part as follows:

> (b) After receipt of a Notice of Termination and except as otherwise directed by the contracting officer the contractor shall * * *: (6) transfer title and deliver to the Government in the manner, to the extent and at the times directed by the contracting officer (i) the fabricated or unfabricated parts, work in process, completed work, supplies and other material produced as a part of, or acquired in respect of the performance of, the work terminated in the Notice of Termination, and (ii) the plans, drawings, information and other property which, if the contract had been completed, would be required to be furnished to the Government; (7) use his best efforts to sell in the manner, to the extent, at the time, and at the price or prices directed or authorized by the contracting officer, any property of the types referred to in subdivision (6) of this paragraph, *Provided, however,* That the contractor (i) shall not be required to extend credit to any purchaser and (ii) may retain any such property at a price or prices approved by the contracting officer;

Attention is invited also to the last two sentences of paragraph (a) of the standard termination article formerly authorized for use in lump sum supply contracts which is reprinted for the convenience of Government personnel in § 88.15–901a.

* * * * *

(d) *Protection of rights of assignee.* (1) If the amounts payable under the contract have been assigned by the contractor, the contracting officer should take appropriate steps in each case to see that the proceeds of any sale or retention of property are dealt with in a manner to protect the proper interests of the assignee. If the amounts of property to be sold are to be substantial, or if a series of sales is likely, normally the written consent of the assignee should be obtained to the method of disposition proposed.

(2) The assignee of a contract which contains, prior to the assignment, the uniform termination article (§ 81.324) or the standard article formerly authorized for use (see § 88.15–901a) takes his assignment subject to the provisions of such article (quoted or referred to in paragraph (a) of this section) but even in such cases the contracting officer should make reasonable efforts to protect the proper interests of the assignee.

(3) Where the Government has made advance payments or participated in guaranteed loans related to a contract in process of termination, the interest of the Government in the proceeds of property which is to be sold or retained by the contractor should be protected by proper coordination, in advance, with the officers or branch charged with the administration of the advance payment or loans.

Section 88.15–400 is amended as follows:

§ 88.15–400 *Summary of action to be taken with respect to presentation of contractor's statements and proposals for settlement.* The following principal steps will be taken to bring about the settlement and payment of amounts, if any, due to the contractor and his subcontractors and suppliers in connection with the termination settlement:

(a) An initial conference will be held with the contractor at or about the time that the termination notice is sent (see § 88.15–322). At this conference the general outlines to be followed in making the settlement will be negotiated and a definite program for its completion will be worked out in detail.

(b) The contractor will file (see § 88.15–402) a statement relating to the amount due to the contractor in connection with the termination. This will be prepared in accordance with instructions given at the initial conference and with applicable regulations and shall constitute a proposal for a negotiated settlement of the amount due in connection with the termination.

(c) The various subcontractors will file with the prime contractor similar proposals for settlement. In any instance where the settlement of the subcontract is likely to be complicated, the preparation of these proposals should usually be the subject of a conference between the prime contractor and the subcontractor.

(d) The contractor will review, through his own personnel, the statements presented by his subcontractors and negotiate settlements with them respectively, subject, however, to the approval of the contracting officer (see § 88.15–430). He will present the subcontractors' statements and proposals for settlement, either separately or as a group, to the contracting officer for approval in connection with his own settlement, with his recommendation and certificate (see § 88.15–440).

(e) The contracting officer will utilize the services of the Government accounting personnel in connection with the settlement to the extent that he deems desirable in the particular case. In this connection special attention is invited to the fourth paragraph of the memorandum of the Under Secretary of War dated 10 February 1944 set forth in § 88.15–422.

(f) Any report requested of Government accounting personnel (see §88.15–424), and the comments and recommendations therein contained, will be regarded as advisory only and will not bind or control the discretion of the contracting officer.

§ 88.15–401 *Negotiated settlement compared with a formula settlement.* The preparation of accounting data and proposal for settlement are designed to facilitate the negotiation of a settlement of the amount due in connection with the termination. Such a negotiated settlement is authorized by paragraph (c) of the new uniform termination article §§ 81.324 and 88.15–901 and of the old standard termination article formerly authorized for use in lump sum supply contracts (§ 88.15–901a). If such a settlement cannot be negotiated between the contracting officer and the contractor, then, under the termination article, settlement will be made in accordance with the formula contained in paragraph (d) of the applicable article. A negotiated settlement can be made more expeditiously than a formula settlement and results in more prompt payment of the amounts owing to contractors and subcontractors. The method of settlement by negotiation, therefore, is to be regarded as the primary and more satisfactory method of settlement. Settlement by formula will be a secondary method and will be resorted to only where a negotiated settlement proves to be impossible. If a settlement by negotiation is not made, the contractor's accounting statement will serve as a basis for determining what further investigation is necessary to permit of settlement by formula.

In § 88.15–421 a cross reference is added to paragraph (c), as follows:

§ 88.15–421 *The Termination Accounting Manual.* * * *

(c) *Examination of subcontractors' claims.* The Termination Accounting Manual (see T. A. M., par. 1114) is prescribed as a guide in making an accounting examination of claims of subcontractors when such examinations are to be made by Government accounting personnel (see § 88.15–437). It is also suitable for use by contractors in the examination by them of subcontractors' charges.

* * * * *

Section 88.15–422 is amended as follows:

§ 88.15–422 *Function of the contracting officer in reviewing statements and proposals of contractors.* The contracting officer has the responsibility for passing upon the contractor's proposal and arriving at an agreement with the contractor. In carrying out these functions, the contracting officer must decide the extent to which he requires independent review and verification of the contractor's statement by personnel qualified to deal with accounting matters (see T. A. M. 1104). In this connection, the accounting personnel operate to assist the contracting officer in an advisory capacity when such technical assistance is requested by him. Contracting officers will pursue a policy of reducing auditing to a minimum consistent with protecting the interests of the Government. Whenever possible, reliance should be placed on intelligent reviews of contractors' data rather than on detailed audits. In those cases where audits do appear to be necessary, it is also expected that they will be carried out in accordance with the principles of selective auditing (see T. A. M. 1106).

Attention is invited to the following memorandum of the Under Secretary of War which indicates the nature of the responsibility of the contracting officer to expedite negotiations and the proper method of utilizing the services of accounting personnel:

MEMORANDUM FOR THE COMMANDING GENERAL, ARMY SERVICE FORCES, THE COMMANDING GENERAL, ARMY AIR FORCES

10 FEBRUARY 1944.

Subject: Approval of Contractors' Statements of Charges in Contract Termination Settlements.

1. Termination procedures established in the contracting offices of the Army Service Forces and the Army Air Forces have not produced expected results. The reluctance of Contracting Officers to execute courageously their responsibilities as outlined in Procurement Regulation 15 continues to delay unnecessarily contract termination settlements. This reluctance is evidenced by the number of settlements awaiting Contracting Officers approval as to disposition of contractor-owned property or as to contractors' statements of charges. My position regarding disposition of contractor-owned property was discussed in memoranda dated 30 June and 30 December, 1943. It is important that the principles stated in those memoranda be applied.

2. Statistics available indicate that contractors' statements of charges are often substantially in excess of amounts included in negotiated settlement agreements. This condition arises in most cases because contractors are not completely familiar with the proper method of presenting a statement of charges. It is a primary duty of Contracting Officers to instruct contractors in the general principles stated in Procurement Regulation 15 and the Termination Accounting Manual in order that they may be able to prepare statements of charges which can be included properly in the negotiated settlement agreements. At the time of the first conference with the contractor, the Contracting Officer should develop the general outlines on which settlement will be made. The problems of the particular case should be analyzed and wherever possible an agreement should be reached as to the general basis for the preparation of the contractor's statement. If properly done, this will reduce the amount of accounting review necessary and result in fewer differences between contractors' settlement proposals and the sum finally agreed upon.

3. It is the policy of the War Department, definitely stated in Procurement Regulation 15, that the contractor receive fair and reasonable compensation for the work performed and for the supplies and articles furnished under the terminated contract. In this respect the work of Contracting Officers will be evaluated not by the extent to which they succeed in reducing the settlements proposed by contractors, but by the extent to which prompt settlements, which are fair both to the contractor and to the Government, are made.

4. The delay in approving contractors' statements of charges results not only from improper preparation of statements but also from the unreasonable utilization of detailed auditing. Reluctance to make use of the office review procedure and an insistence on field audits have delayed settlements for extended periods. It is important that office reviews of the scope outlined in Procurement Regulation 15 be utilized to the fullest extent and that field audits be the exception rather than the rule. Contracting Officers should bear in mind that in submitting statements to the Government the contractor represents that the facts stated are true and he is subject to penalty for any false certificate. (See 18 U.S.C. 80). Both Procurement Regulation 15 and the Termination Accounting Manual place responsibility on the Contracting Officer for deciding the extent to which he requires verification of the contractor's statement. While the Contracting Officer should have adequate accounting information available in making his decisions, it is his responsibility to make prompt and final decisions after having obtained the reports prepared by accounting personnel.

5. It is suggested that Contracting Officers be instructed in accordance with the foregoing.

[S] ROBERT P. PATTERSON,
Under Secretary of War.

Section 88.15–487 is added:

§ 88.15–487 *Bond premium computation.* See § 81.408 (b) for bond premium computation on terminated contracts.

In § 88.15–501 (d) subparagraph (3) is added as follows:

§ 88.15–501 *Partial payments to prime contractors.* * * *

(d) *Conditions which may be imposed in connection with partial payments.* * * *

(3) To accomplish partial payments, an agreement supplemental to the prime contract in substantially the form set forth in § 88.15–922 will be entered into between Government and the prime contractor.

In § 88.15–651 paragraphs (c), (d) and (e) are amended as follows:

§ 88.15–651 *Steps in the termination of cost-plus-a-fixed-fee contracts.* * * *

(c) *Settlement of fixed price (lump sum) subcontracts, purchase orders and obligations.* (1) Numerous cost-plus-a-fixed-fee contracts now in effect contain a provision for termination for the convenience of the Government substantially in the form set forth in § 81.350 of this chapter. In terminating such contracts, effort will be made to obtain the full cooperation of the prime contractor in connection with the termination and settlement of his obligations and commitments. The contractor clearly remains liable upon his subcontracts and commitments. He is also plainly under obligation to obtain from his subcontractors, vendors and suppliers their statements of amounts due on account of the termination or cancellation of their subcontracts, purchase orders and other commitments and to lend all reasonable assistance in their settlement.

(2) Reimbursement will be made to a prime contractor (whose cost-plus-a-fixed-fee contract is in process of termination) of any amount paid by the prime contractor to a subcontractor or other obligee under a fixed price (lump sum) subcontract, purchase order or obligation pursuant to a termination settlement agreement with the subcontractor.

(i) If the prime contractor negotiates such settlement in good faith with the subcontractor or other obligee for the purpose of agreeing upon an amount which the subcontractor or other obligee will accept in satisfaction of his claim;

(ii) If the amount thus agreed upon is embodied in a settlment agreement between the prime contractor and subcontractor or other obligee releasing the prime contractor and Government from any further liability; and

(iii) If the settlement in question is approved by the contracting officer as being a reasonable and proper settlement and in the best interest of the Government.

The foregoing principles are applicable regardless of whether or not the subcontract, purchase order or other obligation includes a termination article and, if it includes a termination article, regardless of whether such article includes a settlement formula or provides expressly that upon termination, settlement of the subcontract, purchase order or other obligation may be made by negotiation.

(3) In determining the fair amount of the adjustment to be made in the fixed fee of a contractor, whose cost-plus-a-fixed-fee contract has been the subject of a notice of termination for the convenience of the Government pursuant to an article like that set out in § 81.350 of this chapter (see especially subparagraph 3 (e)) or in § 88.15–905 (see especially subparagraph (2) (d) of such article), the extent of the work and cooperation of the contractor in effecting settlement of the prime contract and of subcontracts may be given consideration. Ordinarily, assignments to the Government of subcontract rights will not be made by the contractor unless the contracting officer is of the opinion that some pecuniary or administrative advantage to the Government will result from such assignment and specifically directs that it be made.

(4) In some cost-plus-a-fixed-fee contracts[1] there has been included a termination article (hitherto principally used by the Ordnance Department) providing expressly that it is the duty of the prime contractor to settle the amount due to subcontractors, vendors and suppliers on account of termination. Under contracts containing an article of this type, subcontract settlements will be made by the prime contractor in accordance with the procedure set forth in subparagraph (2) above. It is expected that shortly an approved uniform termination article for use in cost-plus-a-fixed-fee supply contracts will be prescribed which in general will be of the type described in this subparagraph.

(5) It is the general policy of the War Department to encourage, to the greatest extent possible, the settlement by the prime contractor of all obligations arising out of the termination of subcontracts, purchase orders or other commitments as the result of the termination of a cost-plus-a-fixed-fee contract, as such settlement tends to expedite payments to subcontractors.

(d) *Settlement of cost-plus-a-fixed-fee subcontracts, purchase orders and other obligations of the prime contractor.* Ordinarily, it will be feasible to settle cost-plus-a-fixed-fee subcontracts, purchase orders and other commitments of a prime contractor under a cost-plus-a-fixed-fee prime contract in accordance with the terms of the instrument containing such cost-plus-a-fixed-fee obligation. If this is done, audit and payment of the unreimbursed costs of such obligation will be made in a manner consistent with the applicable instructions set forth in the appropriate War Department Manual for Administrative Audits of cost-plus-a-fixed-fee contracts.[2] However, in the interest of expeditious settlement of such claims, the prime contractor and the subcontractor may settle by negotiation in the manner set forth in paragraph (c) (2) of this section, all amounts due with respect to the subcontract, the amount of any adjustment of any fixed fee payable under the subcontract, and the costs and expenses incurred by the subcontractor in connection with the termination and settlement of such cost-plus-a-fixed-fee subcontract; and the amount of any such settlement, when approved by the contracting officer as made in good faith and with protection of the interests of the Government, shall be reimbursable to the prime contractor.

(e) *Authorization of direct payment of subcontractors in certain cases.* (1) The procedure set forth in this paragraph (e) is authorized in connection with the termination of any prime contract containing (i) a termination article in substantially the form set forth in §§ 81.350, 88.15–903 or 88.15–905 under which it is provided the Government "shall assume and become liable for" certain obligations of the contractor, or (ii) a provision (which may be inserted by amendment) permitting the direct payment by the Government of obligations of the prime contractor related to the prime contract and the release of the Government, by virtue of such direct payment, of all liability with respect to such obligations so paid.

(2) By any supplemental agreement between the prime contractor under a contract of the type mentioned in subparagraph (1) and a subcontractor, entered into pursuant to paragraph (c) or (d) of this section, fixing the amount owed by the prime contractor to the subcontractor, the parties thereto may agree (i) that payment of such amount when approved by the contracting officer, will be made by the Government directly to the subcontractor and (ii) that, upon the making of such direct payment the Government will thereby be discharged of all liability to the prime contractor and to the subcontractor with respect to the obligation settled by such supplemental agreement. Direct payment to the subcontractor of the amount agreed upon in such supplemental agreement may be made by the Government upon the approval of the supplemental agreement by the contracting officer.

(3) Such direct payments under prime contracts of the type referred to in subparagraph (1) will frequently expedite termination settlement of such prime contracts and will facilitate the prosecution of the war. Accordingly, the chief of each technical service may authorize the amendment of any such prime contract pursuant to the First War Powers Act and Executive Order No. 9001, either before or after the giving of a notice of

[1] The nature of this article is such that it has not been regarded as appropriate for use in connection with cost-plus-a-fixed-fee construction contracts.

[2] (a) *Cost-plus-a-fixed-fee supply contracts.* See "Manual for Administrative Audit of Cost-Plus-A-Fixed-Fee Supply Contracts," 14 August 1942.

(b) *Cost-plus-a-fixed-fee construction contracts.* See "War Department Corps of Engineers—Manual for Administrative Audit of Cost-Plus-A-Fixed-Fee Construction Contracts," 29 August 1942.

termination of such prime contract, to provide for such direct payment.

(4) In determining whether the procedure under this paragraph (e), permitting direct payments to subcontractors will be approved, the contracting officer should proceed only after adequate consideration of any possible legal problems in any case where the prime contractor or any intermediate subcontractor is believed to be in financial difficulties. This procedure should not be used in any case.

(i) Where the written consent of the prime contractor and any intermediate subcontractors has not been obtained, or

(ii) Where the amount of the payment may impair any right of set-off possessed by the Government or the ability of the Government to enforce any claim against the prime contractor.

In any case where the prime contractor, the subcontractor, or any intermediate subcontractor is in receivership, reorganization or bankruptcy, the advice of the Director, Readjustment Division, Headquarters, Army Service Forces, should be sought before utilizing this procedure.

* * * * *

Section 88.15–901a is added as follows:

§ 88.15–901a *Old standard article formerly used in lump sum supply contracts.* The following article was prescribed for use in lump sum supply contracts from December 1942 until 20 February 1944,[1] It is no longer authorized for use but is here reprinted merely for the convenience of Government personnel because of its inclusion in so many outstanding contracts:

Article * * * *Termination for the convenience of the Government.* (a) The Government may, at any time, terminate this contract in whole or in part by a notice in writing from the Contracting Officer to the Contractor that the contract is terminated under this Article. Such termination shall be effective in the manner and upon the date specified in said notice and shall be without prejudice to any claims which the Government may have against the Contractor, or any claims which the Contractor may have against the Government. Upon receipt of such notice the Contractor shall, except as the Contracting Officer directs otherwise, (1) discontinue all work and the placing of all orders for materials and facilities in connection with performance of this contract, cancel all existing orders chargeable to this contract, and terminate all subcontracts chargeable to this contract; (2) transfer to the Government, by delivery f. o. b. ---------- or by such other means as the Contracting Officer may direct, title to all completed supplies (including spare parts, drawings, information and other things) called for herein, not previously delivered, and partially completed supplies, work in process, materials, fabricated parts, plans, drawings, and information acquired or produced by the Contractor for the performance of this contract; and (3) take such action as may be necessary to secure to the Government the benefits of any rights remaining in the Contractor under orders or subcontracts wholly or partially chargeable to this contract to the extent that such orders or subcontracts are so chargeable. If and as the Contracting Officer so directors or authorizes, the Contractor shall sell at a price approved by the Contracting Officer, or retain at a price mutually agreeable, any such supplies, partially completed supplies, work in process, materials, fabricated parts or other things. The proceeds of such sale or the agreed price shall be paid or credited to the Government in such manner as the Contracting Officer may direct so as to reduce the amount payable by the Government under this Article.

(b) The Government shall, upon such termination of this contract, pay to the Contractor the contract price of all supplies (including spare parts, drawings, information and other things) called for herein which have been completed in accordance with the provisions of this contract and to which title has been received by the Government under the provisions of Paragraph (a) (2) of this Article and for which payment has not previously been made.

(c) In addition to, and without duplication of, the payments provided for in paragraph (b), or of payments made prior to the termination of this contract, the Government shall pay to the Contractor such sum as the Contracting Officer and the Contractor may agree by Supplemental Agreement is reasonably necessary to compensate the Contractor for his costs, expenditures, liabilities, commitments, and work in respect to the uncompleted portion of the contract so far as terminated by the notice referred to in paragraph (a). The Contracting Officer shall include in such sum such allowance for anticipated profit with respect to such uncompleted portion of the contract as is reasonable under all the circumstances.

(d) If the Contracting Officer and the Contractor, within 90 days from the effective date of the notice of termination referred to in paragraph (a) or within such extended period as may be agreed upon between them, cannot agree upon the sum payable under the provisions of paragraph (c), the Government, without duplication of any payment made pursuant to paragraph (b) or prior to the termination of this contract, shall in the above events compensate the Contractor for the uncompleted portion of the contract as follows:

(1) By reimbursing the Contractor for all actual expenditures and costs certified by the Contracting Officer as having been made or incurred with respect to the uncompleted portion of the contract;

(2) By reimbursing, or providing for the payment or reimbursement of, the Contractor for all expenditures made and costs incurred with the prior written approval of the Contracting Officer in settling or discharging that portion of the outstanding obligations or commitments of the Contractor which had been incurred or entered into with respect to the uncompleted portion of the contract; and

(3) By paying the Contractor, as a profit on the uncompleted portion of the contract insofar as a profit is realized hereunder, a sum to be computed by the Contracting Officer in the following manner:

(A) The Contracting Officer shall estimate the profit which would have been realized on the uncompleted portion of the contract if the contract had been completed and labor and material costs prevailing at the date of termination had remained in effect.

(B) Estimate, from a consideration of all relevant factors, the percentage of completion of the uncompleted portion of the contract.

(C) Multiply the anticipated profit determined under (A) by the percentage determined under (B). The result is the amount to be paid to the Contractor as a proportionate share of profit, if any, as above provided.

Notwithstanding the above provisions, no compensation shall be paid under this Paragraph (d) by way of reimbursement for expenditure, including expenditures made in settling or discharging obligations or commitments, or by way of profit on account of supplies and other things which are undeliverable because of destruction or damage, whether or not because of the fault of the contractor.

(e) The Government shall pay to the Contractor such sum as the Contracting Officer and the Contractor may agree upon for expenditures made and costs incurred with the approval of the Contracting Officer (a) after the date of termination for the protection of Government property, and (b) for such other expenditures and costs as may be necessary in connection with the settlement of this contract, and in the absence of such agreement as to the amount of such expenditures and costs shall reimburse the Contractor for the same.

(f) The obligation of the Government to make any of the payments required by this Article shall be subject to any unsettled claim for labor or material and to any claim which the Government may have against the Contractor under or in connection with this contract, and payments under this Article shall be subject to reasonable deductions by the Contracting Officer on account of defects in the materials or workmanship of completed or partially completed supplies delivered hereunder.

(g) The sum of all amounts payable under this Article, plus the sum of all amounts previously paid under this contract, shall not exceed the total contract price, adjusted in the event that this contract contains an article providing for price adjustment, on the basis of the estimate of the Contracting Officer, to the extent which would have been required by such article if this contract had been completed and labor and materials costs prevailing at the date of termination had remained in effect.

(h) Should the above provisions of this Article not result in payment to the Contractor of at least $100, then that amount shall be paid to the Contractor in lieu of

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[1] This contract article, as from time to time revised, originally appeared as Article 14 of Supply Contract Form No. 1 (approved Sept. 1941). From 1 July 1942 until 21 January 1944 it appeared at all times in paragraph 324 of Procurement Regulations. On 21 January 1944 it was supplanted by the uniform termination article prescribed by the Office of War Mobilization (§ 81.324). The contract article set forth above is in the form appearing after revisions made late in 1942. Such revisions were principally as follows:

(1) A provision explicitly permitting a *negotiated* settlement of the amount due with respect to the *uncompleted* portion of the contract by reason of the termination was inserted (see par. (c) of the termination article).

(2) Sales of property, title to which the Government might require to be transferred to it upon the termination, were expressly permitted. This involved the addition of the last two sentences of paragraph (a) of the termination article as presently printed above.

(3) A negotiated settlement of the amount due (a) for protecting Government property after the date of the termination and (b) for other settlement expenses was expressly permitted by an amendment of paragraph (e) of the termination article.

(4) Partial payments on account of amounts due under the termination article were permitted by the addition of paragraph (i).

(5) Termination under the provisions of the termination article (rather than for default) was made mandatory in the case of certain terminations at the end of hostilities. This provision is found in paragraph (1) of the article.

At the same time similar changes were made in the standard termination article for lum sum construction contracts (§ 81.324 (b)).

any and all payments hereinbefore provided for in this Article.

(i) The Government shall promptly make partial payments to the Contractor.

(1) on account of the amounts due under paragraphs (b), (c), and (d) of this Article to the extent that, in the judgment of the Contracting Officer, such payments are clearly within the amounts due under such paragraphs, and

(2) of such amounts as the Contracting Officer may direct, on account of proposed settlements of outstanding obligations or commitments, to be made by the Contractor pursuant to paragraph (d) (2) of this Article, if such settlements shall have been approved by the Contracting Officer and subject to such provisions for escrow or direct payment to the persons entitled to receive such settlement payments as the Contracting Officer may require.

(j) Any disputes arising out of termination under this Article shall be decided in accordance with the procedure prescribed in Article 12 of this contract.

(k) Upon the making of the payments called for by this Article, all obligations of the Government to make further payments or to carry out other undertakings hereunder shall cease forthwith and forever, except that all rights and obligations of the respective parties under the Articles, if any, of this contract applicable to patent infringements and reproduction rights shall remain in full force and effect.

(l) The Government shall terminate this contract only in accordance with this Article, except as otherwise provided by law or by Article _____ (Delays-Damages). Notwithstanding Article _____ (Delays-Damages) and any defaults of the Contractor, the Government shall terminate this contract only in accordance with this Article if such termination is simultaneous with or part of or in connection with a general termination of war contracts at, about the time of, or following the cessation of the present hostilities or the end of the present war, unless the Contracting Officer finds that the defaults of the Contractor (1) have been gross or willful and (2) have caused substantial damage to the Government.

Section 88.15–922 is added as follows:

§ 88.15–922 *Form of supplemental agreement for partial payments pending final determination of amount payable by Government in connection with termination.*

(1) Supplemental agreement entered into this _____ day of _____, 194__, by the United States of America, hereinafter called "the Government," represented by the contracting officer executing this agreement, and _____, hereinafter called "the Contractor,"

Witnesseth that: Whereas, on _____ day of _____, 194__, the parties hereto entered into Contract No. ____, and

Whereas, notice of termination of said contract has been given pursuant to Article ____ thereof, and

Whereas, said Article provides that the Government shall make partial payments of the amounts to which the contractor shall be entitled thereunder, as may be determined by agreement or otherwise, whenever in the opinion of the contracting officer the aggregate of such payments shall be within the amount to which the contractor will be entitled by reason of such termination, and[1]

Whereas, the contractor hereby represents to the Government that at least the sum of $_____ is clearly due the contractor by reason of the termination of said contract and the Government desires to make a payment to the contractor pending the final determinator of the amount payable of such termination, and[1]

Whereas, this agreement is entered into pursuant to the First War Powers Act, 1941, and Executive Order No. 9001 and it has been determined that the execution of this agreement will facilitate the prosecution of the war:

ARTICLE I. Upon the execution of this supplemental agreement by the parties hereto, and upon the contractor's submission of a proper voucher therefor, the Government will pay to the contractor the sum of $_____

ART. II. Said sum shall be applied against the amount finally determined to be payable by the Government to the contractor in connection with such termination. If such payments exceed the amount finally determined to be payable to the contractor in connection with such termination, the contractor agrees to repay the excess to the Government on demand together with interest thereon at the rate of 6% per annum from the date of receipt of such excess payment by the contractor to the date of the repayment of such excess.

ART. III The payment provided for herein, together with any prior payments received by the contractor in connection with such termination, shall be without prejudice to the right to receive any additional amounts to which the contractor may be entitled as a result of such termination.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

The United States of America

By _____
Title

_____
Contractor

By _____
Title

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 44–3730; Filed, March 17, 1944; 10:40 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T. D. 5102]

PART 22—DRAWBACK

DRAWBACK ENTRY AND CERTIFICATE OF MANUFACTURE

MARCH 16, 1944.

Section 22.16 (a), Customs Regulations of 1943 (CFR 22.16 (a)), is hereby amended to read as follows:

(a) A drawback entry and certificate of manufacture shall be filed in duplicate within 2 years after the date the articles are exported. Such entry and certificate shall be filed on customs Form 7575 except in cases covered by paragraph (c) or (e) of this section. One entry may cover several shipments. All documents necessary to the liquidation of the entry, including those issued by one customs officer to another, shall be filed or applied for, as the case may require, within the 2-year period prescribed above, except that any required landing certificate shall be filed within the time prescribed in § 22.21 (c). The Commissioner of Customs may specifically authorize an extension of the 2-year period for compliance with any of the foregoing requirements.

(Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U.S.C. 1313, 1624)

[SEAL] W. R. JOHNSON,
Commissioner of Customs.

Approved: March 16, 1944.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 44–3828; Filed, March 18, 1944; 10:35 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter C—Miscellaneous Excise Taxes

[T. D. 5340]

PART 101—TAXES ON ADMISSIONS, CABARETS, DUES, AND INITIATION FEES

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 43 (1941 edition) [Part 101, Title 26, Code of Federal Regulations, 1941 Sup.], relating to taxes on admissions, dues, and initiation fees under Chapter 10 of the Internal Revenue Code, as amended, to sections 301 and 302 of the Revenue Act of 1943 (Public Law 235, 78th Congress), enacted February 25, 1944, such regulations are hereby amended as follows:

PARAGRAPH 1. The words following "Part 101" in the heading immediately preceding "Subpart A—Introductory", as amended by Treasury Decision 5192, approved December 3, 1942, are further amended to read as follows:

Regulations Relating to the Taxes on Admissions, Cabarets, Dues, and Initiation Fees (Chapter 10 of the Internal Revenue Code as Amended by the Revenue Acts of 1941 and 1942; and Chapter 9A of the Internal Revenue Code as Amended by the Revenue Act of 1943)

PAR. 2. The first sentence of the first paragraph of § 101.0, as amended by Treasury Decision 5192, is further amended to read as follows:

§ 101.0 *Scope of regulations.* These regulations deal with the excise taxes imposed on admissions, cabarets, dues, and initiation fees by Chapter 10 of the Internal Revenue Code, as amended by section 521, Part II, and sections 541, 542, 543, and 550, Part IV, of Title V, of the Revenue Act of 1941, and section 622, Title VI, of the Revenue Act of 1942, and as modified by Chapter 9A of the Internal Revenue Code, as amended by section 302, Title III, of the Revenue Act of 1943.

PAR. 3. Immediately following the quotation of section 3797 under "Definitions"

[1] This "Whereas" clause will be used only in making supplements to contracts containing, or which have been amended to contain, the new uniform termination article (§§ 81.324; 88.15–901).

The following paragraph will be used in place of this "Whereas" clause where a partial payment supplement is being executed to a contract containing (or heretofore amended to contain) the old standard termination article formerly found in § 81.324 (see § 88.15–901a).

Whereas, said Article provides that the Government shall promptly make partial payments to the contractor to the extent that in the judgment of the contracting officer such amounts are clearly due by reason of termination under said Article, and.

in "Subpart B—General Provisions" there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1655. DEFINITION.

For the purposes of this chapter the term "date of the termination of hostilities in the present war" means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

PAR. 4. Immediately preceding § 101.1 there is inserted the following:

SEC. 301. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1943, enacted February 25, 1944, Title III)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III.)

* * * * *

(b) *Effective date or period of Certain Increases.* Notwithstanding section 301 of this Act:

(1) *Cabaret tax.* The increase made by subsection (a) of this section in the tax imposed by section 1700 (e) of the Internal Revenue Code shall be applicable only with respect to the period beginning at 10:00 a. m. on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

* * * * *

PAR. 5. Section 101.1, as amended by Treasury Decision 5192, is further amended to read as follows:

§ 101.1 *Effective period.* The taxes on admissions, cabarets, dues, and initiation fees were effective under Title V of the Revenue Act of 1926, as amended. The applicable provisions of the Revenue Act of 1926, as amended, were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code.

The Revenue Act of 1940 made amendments of the Code, effective during a limited period only, with respect to the taxes covered by these regulations. These amendments were superseded by amendments made by the Revenue Act of 1941, effective October 1, 1941. The amendments made by the Revenue Act of 1941, and all subsequent amendments relative to these taxes, prior to the amendments made by the Revenue Act of 1943, apply indefinitely except as affected by the provisions of the Revenue Act of 1943.

The effective date of the amendments made by the Revenue Act of 1943, and of the amendments of these regulations pursuant to the Revenue Act of 1943, is April 1, 1944, and such amendments remain in effect until the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war. In the case of the cabaret tax, the amendments become effective at 10 a. m. on April 1, 1944.

PAR. 6. Immediately preceding § 101.2 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1659. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate".

Section	Description of tax	Old rate	War tax rate
1700 (a)	Admissions	1 cent for each 10 cents or fraction thereof.	1 cent for each 5 cents or major fraction thereof.

* * * * * *

PAR. 7. Section 101.4 is amended as follows:

(A) By changing "1 cent for each 10 cents or fraction thereof" in the first sentence of the first paragraph to "1 cent for each 5 cents or major fraction thereof"

(B) By changing the fourth and fifth sentences of the fourth paragraph to read as follows:

Thus, if a combination ticket is issued entitling the holder to admission and to the use of a reserved seat for $1.50, the tax is 30 cents, and the same amount of tax would be due if separate tickets of admission and for a reserved seat were sold for 75 cents each. In the latter case the tax on the first admission charge of 75 cents is 15 cents and the tax on the additional charge of 75 cents for a reserved seat is 15 cents.

(C) By inserting at the end thereof the following paragraph:

The following table sets forth the amounts of taxes applicable to certain admission charges:

Admission charges (inclusive)	Tax
$0.01 to $0.02	$0.00
$0.03 to $0.07	.01
$0.08 to $0.12	.02
$0.13 to $0.17	.03
$0.18 to $0.22	$0.04
$0.23 to $0.27	.05
$0.28 to $0.32	.06
$0.33 to $0.37	.07
$0.38 to $0.42	.08
$0.43 to $0.47	.09
$0.48 to $0.52	.10

The tax on all other admission charges is likewise to be computed at the rate of 1 cent for each 5 cents or major fraction thereof.

PAR. 8. Section 101.6 is stricken out.

PAR. 9. Immediately preceding § 101.7 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1660. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate".

Section	Description of tax	Old rate	War tax rate
1700 (b)	Permanent use or lease of boxes or seats	11 per centum	20 per centum

* * * * * *

PAR. 10. Section 101.8 is amended as follows:

(A) By changing "11 per cent" wherever appearing therein to "20 per cent"

(B) By changing "1 cent for each 10 cents or fraction thereof," in the fifth sentence of the first paragraph to "1 cent for each 5 cents or major fraction thereof,"

(C) By changing "$77" in the fourth sentence of example (1) to "$140" "$3.85" in the third sentence of example (2) to "$7" and "$660" in the fifth sentence of example (3) to "$1,200"

PAR. 11. Immediately preceding § 101.9 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate".

Section	Description of tax	Old rate	War tax rate
* * *	* * *	*	*
1700 (c)	Sales of tickets outside box office	11 per centum	20 per centum.
* * *	* * *	*	*

* * * * * * * *

PAR. 12. Section 101.11 is amended as follows:

(A) By changing "11 per cent" in the second sentence of the first paragraph to "20 per cent".

(B) By changing the second, third and fourth sentences of the second paragraph to read as follows:

The remainder represents the excess charge, and the 20 per cent tax applies to that amount. Thus, by way of illustration, if a ticket broker sells for $4.50 a ticket or card of admission the regular or established price of which is $3.50, plus 70 cents tax, the excess charge is not $1, but 30 cents. This is determined in the following manner:

Established price	$3.50
Admission tax thereon	.70
Total	4.20
Sale price	4.50
Difference, representing taxable excess charge	.30
Tax due at 20 per cent	.06

(C) By changing the second sentence of example (1) to read as follows:

The taxes to be collected and paid by the theater and broker in this case are as follows:

THEATER

Receives from broker:		*Disposition*	
Established price	$3.50	which it retains.	
Admission tax	.70	which it must pay to collector	$0.70
Total	4.20	Total	.70

BROKER

Receives from customer:		*Disposition*	
Established price	$3.50	which he retains.	
Additional charge	.70	which he retains as reimbursement of admission tax paid to theater.	
Excess charge	.80	on which he must pay as tax to collector	$0.16
Total	5.00	Total	.16

(D) By changing "1⅑ cents" in the third sentence of example (2) to "2 cents".

PAR. 13. Section 101.12, paragraph 3, "*Example*" is amended by changing "20 cents" to "40 cents", "5½ cents" to "10 cents", and "11 per cent" to "20 per cent".

PAR. 14. Immediately preceding § 101.13 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* * *	* * *	*	* *
1700 (c)	Cabarets, roof gardens, etc.	5 per centum	30 per centum.
* * *	* * *	*	* *

* * * * * * * *

PAR. 15. The first paragraph of § 101.13, as amended by Treasury Decision 5192, is further amended to read as follows:

§ 101.13 *Basis, rate, and computation of tax.* The tax imposed by section 1700 (e), as amended, applies to all amounts paid for admission, refreshment, service, and merchandise, at any roof garden, cabaret, or other similar place furnishing a public performance for profit, by or for any patron or guest who is entitled to be present during any portion of such performance. The tax is at the rate of 30 per cent of the total amounts so paid.

PAR. 16. Section 101.14, as amended by Treasury Decision 5192, is further amended by changing "25 cents" in the third sentence of example (3) to "$1.50".

PAR. 17. Section 101.18, as amended by Treasury Decision 5170, approved September 25, 1942, is further amended as follows:

(A) By changing the period at the end of the first sentence of subparagraph (2) to a comma and adding thereafter the following:

but only one place of admission shall be named on a ticket and such ticket shall be used only for the purpose of admission at the place so named.

(B) By changing ".10" to "0.20" and "1.10" to "1.20" in the second sentence of the first paragraph of example (1), ".10" to "0.20" and "1.60" to "1.70" in the second sentence of the second paragraph of example (1), and ".10" to "0.20" and "2.10" to "2.20" in the second sentence of example (2).

PAR. 18. Section 101.21 is amended by changing the example to read as follows:

Example. The following is an example of such a sign:

	Admission	*Tax*	*Total*
Box Seats	$4.00	$0.80	$4.80
Orchestra	3.50	.70	4.20
Mezzanine	2.50	.50	3.00
Balcony	2.00	.40	2.40
Gallery	1.00	.20	1.20

In the case of free or reduced rate admissions which are subject to tax based on the established prices (see § 101.5) a sign similar to the following should be used:

Admission	Tax	Total	Free or reduced rate admissions valued at—	Tax to be collected
$4.00	$0.80	$4.80	$4.00	$0.80
$3.50	.70	4.20	3.50	.70
$2.50	.50	3.00	2.50	.50
$2.00	.40	2.40	2.00	.40
$1.00	.20	1.20	1.00	.20

PAR. 19. Immediately preceding § 101.22 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* *	* *	* *	*
1710 (a) (1)	Dues or membership fees	11 per centum	20 per centum.
1710 (a) (2)	Initiation fees	11 per centum	20 per centum.
* *	* *	* *	*

* * * * * * *

PAR. 20. Section 101.23 is amended by changing "11 per cent" in the first paragraph to "20 per cent".

PAR. 21. Section 101.28 is amended by changing "11 per cent" in the first paragraph to "20 per cent".

PAR. 22. Section 101.32 is amended as follows:

(A) By striking out the second sentence of the first paragraph and inserting in lieu thereof the following:

The daily record must identify each series of tickets by showing with respect to each class of admissions (1) the established price, (2) the number of tickets sold at the established price, (3) the prices, other than the established prices, for which tickets are sold, (4) the number of tickets sold at each such price, (5) the number of taxable free admissions, (6) the number of nontaxable free admissions, (7) the tax due, and (8) the opening and closing serial numbers of each numerical sequence.

(B) By striking out "The daily record must be substantially in the form outlined below:" in the second sentence of the fourth paragraph and inserting in lieu thereof the following:

With respect to admissions, the daily record must be substantially in the form outlined below:

Name of theater or place _____ Date _____
Location _____

Admission classifications	Prices	Serial numbers		Total number of admissions	Total tax due	Customer's name
		Opening	Closing			
Admission at established price	Est. price $					
	Est. price $					
	Est. price $					
Reduced rate admissions, taxable on basis of est. price.	Est. price $					
	Est. price $					
	Est. price $					
Reduced rate admissions for armed services, and children under 12.	Sale price $					
	Sale price $					
	Sale price $					
Free admissions taxable on basis of established price.	Est. price $					
	Est. price $					
	Est. price $					
Nontaxable free admissions	Free					
Tickets sold for amounts in excess of established price.	Est. price $					
	Excess chr. $					
	Est. price $					
	Excess chr. $					
	Est. price $					
	Excess chr. $					
Tickets sold to broker or other person for resale.	Est. price $					
	Est. price $					
	Est. price $					

With respect to sales of tickets at places other than the box office, the daily record must be substantially in the form outlined below.

* * * * * *

PAR. 23. Section 101.37 is amended by changing "11 per cent" in the first sentence of the first paragraph to "20 per cent".

(Secs. 301 and 302 of the Revenue Act of 1943 (Pub. Law 235, 78th Cong.), and sec. 3791 of the Internal Revenue Code (53 Stat. 467; 26 U.S.C., 3791))

[SEAL] JOSEPH D. NUNAN, Jr.,
Commissioner of Internal Revenue.

Approved March 17, 1944.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 44-3813; Filed, March 18, 1944; 11:33 a. m.]

[T. D. 5347]

PART 130—TAXES ON SAFE DEPOSIT BOXES, TRANSPORTATION OF OIL BY PIPE LINE, TELEPHONE, TELEGRAPH, RADIO AND CABLE MESSAGES AND SERVICES, AND TRANSPORTATION OF PERSONS

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 42 (1942 edition) [Part 130, Title 26, Code of Federal Regulations, Cum. Supp.], relating to the taxes on safe deposit boxes, transportation of oil by pipe line, telephone, telegraph, radio and cable messages and services, and transportation of persons under the provisions of the Internal Revenue Code, to sections 301, 302 and 307 of the Revenue Act of 1943 (Public Law 235, 78th Congress), enacted February 25, 1944, such regulations are hereby amended as follows:

PARAGRAPH 1. The first paragraph of § 130.0, as amended by Treasury Decision 5190, approved November 30, 1942, is further amended as follows:

(A) By inserting after "Revenue Act of 1942," in subdivision (c) "and modified by Chapter 9A of the Internal Revenue Code, as amended by section 302 of the Revenue Act of 1943,".

(B) By inserting after "Revenue Act of 1942," in subdivision (d) "and modified by Chapter 9A of the Internal Revenue Code, as amended by section 302 of the Revenue Act of 1943,".

PAR. 2. Immediately preceding § 130.1 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

* * * * * *

SEC. 1655. DEFINITION.

For the purposes of this chapter the term "date of the termination of hostilities in the present war" means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

PAR. 3. Section 130.1 is amended by adding at the end thereof the following:

(c) *War period.* The term "war period", when applied in respect of any tax, covered by these regulations, the rate of which is increased by section 1650 as amended by section 302 of the Revenue Act of 1943, means the period beginning with the day on which the increased rate becomes effective and running to the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war as proclaimed by the President or as specified in a concurrent resolution of the two Houses of Congress, whichever is earlier.

PAR. 4. Immediately preceding § 130.30 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* *	* * *	*	*
3465 (a) (1) (A)	Telephone, long distance	20 per centum	25 per centum.
3465 (a) (1) (B) (in so far as it relates to domestic telegraph, cable, and radio dispatches).	Domestic telegraph, cable, or radio dispatches.	15 per centum	25 per centum.
* *	* * *	*	*

(b) *Effective date or period of certain increases.* * * *

(3) *Telegraph, telephone, radio, and cable facilities.* The increases made by subsection (a) of this section in the taxes imposed by section 3465 (a) (1) of the Internal Revenue Code shall apply only to amounts paid for services rendered on or after the effective date of this title. * * *

PAR. 5. Section 130.30, as amended by Treasury Decision 5190, is further

amended by inserting at the end thereof the following paragraph:

The increases in rates made by section 1650 of the Internal Revenue Code, as amended by section 302 of the Revenue Act of 1943, are effective as of April 1, 1944, and apply to amounts paid on and after that date for services specified in section 3465 (a) (1) (A) and (B) which were rendered on and after that date. The increased rates will remain in effect during the war period.

PAR. 6. Section 130.33, as amended by Treasury Decision 5190, is further amended as follows:

(A) By inserting at the end of the first paragraph of paragraph (a) the following:

For the war period the rate of tax is 25 per cent of the amount paid.

(B) By inserting at the end of the first paragraph of paragraph (b) the following:

For the war period the rate of tax on each domestic telegraph, cable, or radio dispatch or message is 25 per cent of the amount paid.

PAR. 7. Immediately preceding § 130.36 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* * *	* * *	* *	*
3465 (a) (2) (A)	Leased wires, etc.	15 per centum 5	25 per centum.
3465 (a) (2) (B)	Wire and equipment service	5 per centum	8 per centum.
* *	* * *	* *	*

(b) *Effective date or period of certain increases.* * * *

(3) *Telegraph, telephone, radio, and cable facilities.* * * * The increases made by subsection (a) in the taxes imposed by section 3465 (a) (2) * * * of the Internal Revenue Code shall apply only to amounts paid pursuant to bills rendered on or after the first day of the first month beginning after the effective date of this title for services for which no previous bill was rendered. Where bills rendered on or after such first day include charges for services previously rendered, such increased rates shall not apply to such services as were rendered more than two months before such first day, and the provisions of section 3465 in effect at the time such prior services were rendered shall be applicable to the amounts paid for such services.

PAR. 8. Section 130.36 as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following paragraph:

The increases in rates made by section 1650 of the Internal Revenue Code, as amended by section 302 of the Revenue Act of 1943, apply to amounts paid pursuant to bills rendered on or after May 1, 1944, for services furnished on or after March 1, 1944, for which no previous bill was rendered. The increased rates will remain in effect during the war period.

PAR. 9. Section 130.38, as amended by Treasury Decision 5190, is further amended as follows:

(A) By inserting at the end of the first paragraph of paragraph (a) the following:

For the war period the rate of tax is 25 per cent of the amount paid.

(B) By inserting at the end of the first paragraph of paragraph (b) the following:

For the war period the rate of tax is 8 per cent of the amount paid.

PAR. 10. Immediately preceding § 130.39 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* *	* * *	* *	*
3465 (a) (3)	Local Telephone Service	10 per centum	15 per centum.
* *	* * *	* *	*

(b) *Effective date or period of certain increases.* * * *

(3) *Telegraph, telephone, radio, and cable facilities.* * * * The increases made by subsection (a) in the taxes imposed by section 3465 (a) * * * (3) of the Internal Revenue Code shall apply only to amounts paid pursuant to bills rendered on or after the first day of the first month beginning after the effective date of this title for services for which no previous bill was rendered. Where bills rendered on or after such first day include charges for services previously rendered, such increased rates shall not apply to such services as were rendered more than two months before such first day, and the provisions of section 3465 in effect at the time such prior services were rendered shall be applicable to the amounts paid for such services.

PAR. 11. Section 130.39, as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following paragraph:

The increase in the rate made by section 1650 of the Internal Revenue Code, as amended by section 302 of the Revenue Act of 1943, applies to amounts paid pursuant to bills rendered on and after May 1, 1944, for services furnished on or after March 1, 1944, for which no previous bill was rendered. The increased rate will remain in effect during the war period.

PAR. 12. The first paragraph of § 130.41, as amended by Treasury Decision 5190, is further amended to read as follows:

§ 130.41 *Rate and application of tax.* The tax is imposed at the rate of 10 per cent of the amount paid by any subscriber for local telephone service or any other telephone service which is not subject to the provisions of section 3465 (a) (1) or (2) of the Code, as amended. (See §§ 130.30 to 130.38.) In the case of service taxable under section 3465 (a) (3) prior to amendment by section 606 of the Revenue Act of 1942, the tax was at the rate of 6 per cent of the amount paid. For the war period the rate of tax is 15 per cent of the amount paid.

PAR. 13. Immediately preceding § 130.44 there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, enacted February 25, 1944, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(7) Section 3466 (a) (relating to exemption from tax on telegraph, telephone, radio, and cable facilities) is amended to read as follows:

(a) No tax shall be imposed under section 3465 upon any payment received for services or facilities furnished to any State, Territory of the United States, or political subdivision thereof, or the District of Columbia, or any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864.

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

* * * * *

(4) The amendment of section 3466 of the Internal Revenue Code, insofar as it relates to the taxes imposed by section 3465 (a) (1), shall be applicable only with respect to messages and dispatches originating on or after the first day of the first month which begins three months or more after the date of the enactment of this Act. Insofar as such amendment relates to the taxes imposed under section 3465 (a) (2) and (3) of the Internal Revenue Code, it shall be applicable only to amounts paid pursuant to bills rendered on or after the first day of the first month which begins three months or more after the date of the enactment of this Act for service for which no previous bill was rendered.

* * * * *

PAR. 14. Section 130.44 is amended as follows:

(A) By substituting the following new paragraphs for the first paragraph thereof:

§ 130.44 *Services furnished to the United States, States, or political subdivisions thereof.* Under the provisions of section 3466 (a), as amended, prior to the amendment thereof by section 307 (a) (7) of the Revenue Act of 1943, amounts paid for services or facilities furnished to officers or employees of the United States or any State or Territory or political subdivision thereof, or the District of Columbia are exempt from tax under section 3465, as amended, if such amounts are paid from government funds.

By virtue of the amendment made by section 307 (a) (7) of the Revenue Act of 1943 to section 3466 (a), as amended, and the application of section 307 (b) (4) of the Revenue Act of 1943 to such amendment, amounts paid by the United States for messages, etc., within the scope of section 3465 (a) (1) originating on or after June 1, 1944, are subject to the taxes thereby imposed. Amounts paid by the United States pursuant to bills rendered on or after June 1, 1944, for services specified in section 3465 (a) (2) and (3) for which no previous bill was rendered are subject to the taxes thereby imposed.

The taxes imposed by section 3465, as amended, do not apply to amounts paid for services or facilities furnished to any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (The American National Red Cross), irrespective of when such amounts are paid or the services or facilities are furnished.

(B) By changing the first sentence of the second paragraph to read as follows:

No exemption certificate is required where the payment for the services or facilities furnished is made by an agency of the government of a State, a Territory of the United States, or political subdivision thereof, the District of Columbia, or The American National Red Cross, direct to the person furnishing the services or facilities.

(C) By striking out the word "Federal" wherever appearing in the exemption certificate.

PAR. 15. Immediately preceding § 130.50 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* * *	* * *	*	*
3469 (a)	Transportation of persons	10 per centum	15 per centum.
* * *	* * *	*	*

SEC. 301. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1943, enacted February 25, 1944, Title III.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 16. Section 130.50, as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following:

The tax rate was further increased by the amendment of section 1650 of the Internal Revenue Code by section 302 of the Revenue Act of 1943. Under this amendment the increased tax rate is effective April 1, 1944, and will remain in effect during the war period.

PAR. 17. The first paragraph of § 130.52, as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following:

For the war period the rate of tax is 15 per cent of the amount of the taxable payment for transportation.

PAR. 18. Immediately preceding § 130.55 there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
* * *	* * *	*	*
3469 (c)	Seats, berths, etc.	10 per centum	15 per centum.

SEC. 301. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1943, enacted February 25, 1944, Title III.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 19. Section 130.55, as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following:

The tax rate was further increased by the amendment of section 1650 of the Internal Revenue Code by section 302 of the Revenue Act of 1943. Under this amendment the increased tax rate is effective April 1, 1944, and will remain in effect during the war period.

PAR. 20. The first paragraph of § 130.57, as amended by Treasury Decision 5190, is further amended by inserting at the end thereof the following:

For the war period the rate of tax is 15 per cent of the amount of the taxable payment for the seating or sleeping accommodations.

PAR. 21. Immediately preceding § 130.61 there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, enacted February 25, 1944, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(8) Section 3469 (f) (1) (relating to governmental exemption from tax with respect to transportation of persons) is amended to read as follows:

(1) *Governmental exemption.* The tax imposed by this section shall not apply to the payment for transportation or facilities furnished to any State, Territory of the United States, or political subdivision thereof, or the District of Columbia, or any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864.

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

* * * * *

(5) The amendments of sections 3469 (f) (1) * * * of the Internal Revenue Code shall be applicable only with respect to amounts paid on or after the first day of the first month which begins three months or more after the date of the enactment of this Act * * *.

* * * * *

Par. 22. Section 130.61 is amended as follows:

(A) By substituting the following new paragraphs for the first paragraph thereof:

§ 130.61 *Transportation and facilities furnished to the United States, to States, or political subdivisions thereof.* Under the provisions of section 3469 (f) (1) prior to the amendment thereof by section 307 (a) (8) of the Revenue Act of 1943, amounts paid by the United States, a State or Territory, or political subdivision thereof, or the District of Columbia, for the transportation of persons or accommodations furnished in connection therewith, are exempt from tax under section 3469, as amended.

By virtue of the amendment made by section 307 (a) (8) of the Revenue Act of 1943, to section 3469 (f) (1), and the application of section 307 (b) (5) to such amendment, amounts paid by the United

States on or after June 1, 1944, for the transportation of persons or accommodations furnished in connection therewith are subject to tax under section 3469, as amended.

The taxes imposed by section 3469, as amended, do not apply to amounts paid for transportation or facilities furnished to any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (The American National Red Cross), irrespective of when such amounts are paid or the transportation or facilities are furnished.

(B) By changing "a Government agency" and "the Government agency" in the second paragraph to "an exempt agency".

PAR. 23. Section 130.62 is amended by changing "a Government agency" in the third and fourth sentences to "an exempt agency".

PAR. 24. Section 130.72 is amended by striking out the third paragraph of paragraph (c).

(Secs. 301, 302 and 307 of the Revenue Act of 1943 (Pub. Law 235, 78th Cong.) and 3472 and 3791 of the Internal Revenue Code (53 Stat. 423 and 467; 26 U.S.C., 3472 and 3791))

[SEAL] HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved: March 15, 1944.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 44-3817; Filed, March 17, 1944; 3:42 p. m.]

[T. D. 5348]

PART 316—EXCISE TAXES ON SALES BY THE MANUFACTURER

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 46 [Part 316, Title 26, Code of Federal Regulations, 1940 Supp.], relating to the excise taxes on sales by the manufacturer under the Internal Revenue Code, to sections 301, 302, 304, 306, 307, and 311 of the Revenue Act of 1943 (Public Law 235, 78th Cong.), enacted February 25, 1944, such regulations are amended as follows:

PARAGRAPH 1. Immediately preceding § 316.2, there is inserted the following:

SEC. 301. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1943, Title III, effective April 1, 1944).

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 2. Section 316.2 as amended by Treasury Decision 5189, approved November 30, 1942, is further amended by adding at the end thereof the following paragraph:

The provision of section 302 of the Revenue Act of 1943, relating to the increase in the rate of tax on electric light bulbs and tubes; the provision of section 302 of the Revenue Act of 1943, affecting section 3441 (c) which relates to leases, conditional sales, existing contracts, etc.; the amendment by section 304 of the Revenue Act of 1943 of section 3406 (a) (2) suspending the manufacturers' excise tax on luggage; the amendment by section 306 of the Revenue Act of 1943 of section 3400 defining the term "rubber"; and the amendment by section 311 of the Revenue Act of 1943 of section 3406 (a) (3) repealing the tax on household type electric vacuum cleaners, become effective in each case on April 1, 1944. The amendments made by section 307 of the Revenue Act of 1943 relating to the termination of the tax exemption with respect to articles sold for the exclusive use of the United States, become effective as to certain articles on June 1, 1944, and as to other articles on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war.

PAR. 3. Immediately preceding § 316.3, there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

* * * * *

SEC. 1652. LEASES, CONDITIONAL SALES, EXISTING CONTRACTS, ETC.

* * * * *

(c) *Existing contracts*—(1) *Tax payable by vendee.* If (A) any person has, prior to the effective date of Title III of the Revenue Act of 1943, made a bona fide contract for the sale on or after such date, of any article with respect to the sale of which a tax is imposed by that Act or an existing rate of tax is increased by that Act, and (B) such contract does not permit the adding to the amount to be paid under such contract of the whole of such tax or increased rate of tax, then (unless the contract prohibits such addition) the vendee shall, in lieu of the vendor, pay so much of the tax as is not so permitted to be added to the contract price.

(2) *Tax paid to vendor.* Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated, and shall be collected and paid to the United States by the vendor in the same manner as provided in section 3467. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner who shall cause collection of such taxes to be made from the vendee.

* * * * *

PAR. 4. Section 316.3, as amended by Treasury Decision 5099, approved November 28, 1941, is further amended by adding at the end thereof the following paragraph:

Under section 1652 (c), added by section 302 of the Revenue Act of 1943, the increase in the existing rate of tax with respect to electric light bulbs and tubes, may, under certain conditions be shifted from the manufacturer to the vendee. The conditions outlined above with respect to the increase in rates which became effective October 1, 1941, are applicable to the increased rate of tax on electric light bulbs and tubes effective April 1, 1944.

PAR. 5. Immediately preceding § 316.8, there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

* * * * *

SEC. 1652. LEASES, CONDITIONAL SALES, EXISTING CONTRACTS, ETC.

(a) *Cases where rate of tax increased.* In the application of section * * * 3441 (c) to the articles with respect to which the rate of tax is increased by this chapter, where the lease, contract of sale, conditional sale, or chattel mortgage was made, delivery thereunder was made, and a part of the consideration was paid, before the effective date of Title III of the Revenue Act of 1943, the total tax referred to in such section shall be the tax at the rate in force on the day before such effective date.

(b) *Cases where new tax imposed.* In the case of (1) a lease, (2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments, (3) a conditional sale, or (4) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments, no tax shall be imposed under section 1651 on the sale of any article if with respect to such article the lease, contract for sale, conditional sale, or chattel mortgage arrangement was made, delivery thereunder was made, and a part of the consideration was paid, before the effective date of Title III of the Revenue Act of 1943.

* * * * *

PAR. 6. Section 316.9, as amended by Treasury Decision 5189, is further amended by adding at the end thereof the following paragraph:

In the case of electric light bulbs and tubes with respect to which the rate of tax is increased by the Revenue Act of 1943, if the lease, contract of sale, conditional sale, or chattel mortgage was made, delivery thereunder was made, and a part of the consideration was paid, before April 1, 1944, the total tax is payable at the rate in force on March 31, 1944.

PAR. 7. Immediately preceding § 316.24, there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(5) Section 3442 (3) (relating to tax-free sales under Chapter 29) is amended to read as follows:

(3) for the exclusive use of any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia.

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

(1) The amendments of sections * * *, and 3442 (3) (except as such section relates to the articles enumerated in section 3404) of the Internal Revenue Code shall be applicable to sales made on or after the first day of the first month which begins three months or more after the date of the enactment of this Act. Such amendments shall not apply to deny an exemption otherwise applicable with respect to any article sold pursuant to a contract entered into prior to the effective date of the amendments, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

(2) The amendments of sections * * *, and 3442 (3) (in so far as such section relates to the articles enumerated in section 3404) of the Internal Revenue Code, shall be applicable to sales made on or after the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war. Such amendments shall not apply to deny an exemption otherwise applicable with respect to any article sold pursuant to a contract entered into prior to the effective date of the amendments, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

* * * * *

(6) For the purposes of this subsection the term "date of the termination of hostilities in the present war" means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

* * * * *

PAR. 8. Section 316.24 is amended as follows:

(A) The first paragraph is eliminated and the following new paragraphs substituted in lieu thereof:

Under the provisions of section 3442 (3) prior to the amendment thereof by section 307 (a) (5) of the Revenue Act of 1943, no tax attaches to articles sold by the manufacturer direct to the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia, for its exclusive use, provided the exempt character of the sale is established as required by these regulations.

By virtue of the provisions of section 307 (a) (5) and (b) (1) of the Revenue Act of 1943 as they affect section 3442 (3), all taxable articles (except firearms, shells, and cartridges, with respect to which see § 316.81 and except articles subject to the tax imposed under section 3404), sold on or after June 1, 1944, by the manufacturer to the United States for its exclusive use are subject to tax except articles sold pursuant to a contract entered into prior to June 1, 1944, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

By virtue of the provisions of section 307 (a) (5) and (b) (2) of the Revenue Act of 1943 as they affect section 3442 (3), the exemption with respect to sales of articles subject to the tax imposed under section 3404, to the United States for its exclusive use, is inapplicable on and after the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war.

(B) The last sentence of the second paragraph is amended to read as follows:

However, where any dealer resells a tax-paid article to any of the governmental units named above, for its exclusive use, the manufacturer who paid the tax to the United States on his sale of the article may in certain cases secure a refund or credit as provided in § 316.204.

PAR. 9. Immediately preceding § 316.30, there is inserted the following:

SEC. 306. TECHNICAL AMENDMENT OF MANUFACTURERS' EXCISE TAX ON TIRES AND INNER TUBES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

Section 3400 (relating to the tax on tires and inner tubes) is amended by inserting at the end thereof the following:

(c) *Definition.* For the purposes of this chapter, the term "rubber" includes synthetic and substitute rubber.

PAR. 10. The first paragraph of § 316.30 is amended by adding at the end thereof the following sentence:

The term "rubber" includes synthetic and substitute rubber.

PAR. 11. Immediately preceding § 316.80, there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(3) The second sentence of the first paragraph of section 3407 (relating to exemption from tax on firearms, shells, and cartridges) is amended to read as follows: "The tax imposed by this section shall not apply (1) to articles sold for the use of any State, Territory of the United States, or political subdivision thereof, or the District of Columbia, or (2) to pistols and revolvers."

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

* * * * *

(2) The amendments of sections * * * 3407, * * * of the Internal Revenue Code, shall be applicable to sales made on or after the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war. Such amendments shall not apply to deny an exemption otherwise applicable with respect to any article sold pursuant to a contract entered into prior to the effective date of the amendments, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

* * * * *

(6) For the purposes of this subsection the term "date of the termination of hostilities in the present war" means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

* * * * *

PAR. 12. The first paragraph of § 316.81 is eliminated and the following new paragraphs substituted in lieu thereof:

Under the provisions of section 3407, prior to the amendment thereof by section 307 (a) (3) of the Revenue Act of 1943, no tax attaches to firearms, shells, and cartridges sold by the manufacturer for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia; *Provided*, That exempt character of the sale is established as required by these regulations.

By virtue of the amendment made by section 307 (a) (3) of the Revenue Act of 1943 of section 3407, and the application of section 307 (b) (2) to such amendment, the exemption with respect to sales of firearms, shells, and cartridges by the manufacturer for the use of the United States, or possession of the United States is inapplicable on and after the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war, unless the sale is made pursuant to a contract entered into prior to such date, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

To be exempt from the tax the articles must be sold for the use of a Government or governmental agency. Firearms, shells, and cartridges sold to officers of a State or municipality in their private capacity or for their private use are not exempt from the tax.

PAR. 13. Immediately preceding § 316.100, as added by Treasury Decision 5039, there is inserted the following:

SEC. 304. SUSPENSION OF MANUFACTURERS' EXCISE TAX ON LUGGAGE. (Revenue Act of 1943, Title III, effective April 1, 1944.)

Section 3403 (a) (2) (relating to the tax on luggage) is amended by inserting at the end thereof the following: "The tax imposed by this paragraph shall not be applicable with respect to any period for which a tax is imposed under section 1651."

PAR. 14. Immediately following § 316.102, as added by Treasury Decision 5039, there is inserted the following new section:

§ 316.103 *Suspension of tax.* Effective April 1, 1944, and for the period during which the retailers' excise tax imposed on luggage, etc., by section 1651 as added by section 302 of the Revenue Act of 1943 is in effect, no tax is imposed on the sale of such luggage, etc., by the manufacturer.

PAR. 15. Immediately preceeding § 316.110, as added by Treasury Decision 5039, there is inserted the following:

SEC. 311. REPEAL OF MANUFACTURERS' EXCISE TAX ON VACUUM CLEANERS. (Revenue Act of 1943, Title III, effective April 1, 1944.)

Section 3406 (a) (3) (relating to the tax with respect to electric, gas, and oil appliances) is amended (a) by inserting "and" before "electric mixers, whippers, and juicers" and (b) by striking out "and household type electric vacuum cleaners".

PAR. 16. Section 316.110, as added by Treasury Decision 5039, is amended by adding a new paragraph at the end thereof, as follows:

The tax does not apply to household type electric vacuum cleaners sold on and after April 1, 1944.

PAR. 17. Immediately preceding § 316.180, as added by Treasury Decision 5039, there is inserted the following:

SEC. 302. INCREASES IN RATES. (Revenue Act of 1943, Title III, effective April 1, 1944.)

(a) *In general.* Chapter 9A is amended to read as follows:

CHAPTER 9A—WAR TAXES AND WAR TAX RATES

SEC. 1650. WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 and ending on the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war shall be the rates set forth under the heading "War Tax Rate":

Section	Description of Tax	Old Rate	War Tax Rate
* * *	* * *	*	*
3406(a) (10)	Electric Light Bulbs and Tubes	5 per centum	20 per centum.
* * *	* * *	*	*

PAR. 18. Section 316.181, as added by Treasury Decision 5099, is amended by adding thereto a sentence as follows:

For the period beginning with April 1, 1944, and continuing until the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war the rate is 20 per cent of the sale price.

PAR. 19. Immediately preceding § 316.193, as added by Treasury Decision 5099, there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(4) The first sentence of section 3411 (c) (relating to exemption from tax on electrical energy) is amended to read as follows: "No tax shall be imposed under this section upon electrical energy sold to any State, Territory of the United States, or political subdivision thereof, or the District of Columbia."

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

(1) The amendments of sections * * * 3411 (c) * * * of the Internal Revenue Code shall be applicable to sales made on or after the first day of the first month which begins three months or more after the date of the enactment of this Act. Such amendments shall not apply to deny an exemption otherwise applicable with respect to any article sold pursuant to a contract entered into prior to the effective date of the amendments, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

* * * * *

PAR. 20. The first paragraph of § 316.193, as added by Treasury Decision 5099, is amended to read as follows:

Under the provision of section 3411 (c) prior to the amendment thereof by section 307 (a) (4) of the Revenue Act of 1943, no tax attaches to electrical energy sold direct to the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia, for its exclusive use, provided the exempt character of the sale is established as required by these regulations. By virtue of the provisions of section 307 (a) (4) and (b) (1) of the Revenue Act of 1943, sales of electrical energy to the United States on or after June 1, 1944, are not exempt from tax, unless the sale is made pursuant to a contract entered into prior to such date, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

PAR. 21. Immediately preceding § 316.204 (as renumbered by Treasury Decision 5099), there is inserted the following:

SEC. 307. TERMINATION OF CERTAIN GOVERNMENTAL EXCISE TAX EXEMPTIONS. (Revenue Act of 1943, Title III.)

(a) The several sections of the Internal Revenue Code hereinafter enumerated are amended as follows:

* * * * *

(6) Section 3443 (a) (3) (A) (i) (relating to credits and refunds of excise taxes imposed by Chapter 29) is amended to read as follows:

(i) resold for the exclusive use of any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

* * * * *

(b) *Period with respect to which applicable.* * * * the amendments made by this section shall apply as follows:

* * * * *

(3) The amendment of section 3443 (a) (3) (A) (i) of the Internal Revenue Code shall not apply to deny the allowance of a credit or refund, otherwise allowable, with respect to the sale of any article by any person to the United States (A) prior to the date on which sales of such articles to the United States become taxable, or (B) pursuant to a contract entered into prior to such date, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

* * * * *

PAR. 22. Section 316.204 is amended by adding at the end thereof the following paragraph:

No credit or refund is allowable for tax paid with respect to the sale of any article on or after June 1, 1944, to the United States, except in those cases where tax has been paid on sales made pursuant to a contract entered into prior to June 1, 1944, or to any agreement or change order supplemental to such contract bearing the same Government contract number.

(Secs. 301, 302, 304, 306, 307, and 311 of the Revenue Act of 1943 (Pub. Law 235, 78th Cong.) and secs. 3450 and 3791 of the Internal Revenue Code (53 Stat. 418, 467; 26 U.S.C., 3450, 3791))

[SEAL] HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved: March 15, 1944.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 44-3818; Filed, March 17, 1944; 3:42 p. m.]

TITLE 32—NATIONAL DEFENSE

Chapter III—Bureau of Mines

PART 301—CONTROL OF EXPLOSIVES AND THEIR INGREDIENTS IN TIME OF WAR OR NATIONAL EMERGENCY

STORAGE OF EXPLOSIVES

Pursuant to the authority conferred by section 18 of the act of December 26, 1941 (55 Stat. 863), as amended, the regulations under the Federal Explosives Act heretofore promulgated[1] are hereby amended as follows:

The last two sentences of § 301.14 (c) and all of § 301.17, being superseded by the following sections numbered 301.24 to 301.30, inclusive, are hereby revoked, without affecting any liabilities incurred or proceedings instituted for violation of the superseded regulations committed prior to the effective date of these amendments.

Sections 301.24 to 301.30, inclusive, are hereby added to the regulations as follows:

Sec.
301.24 General requirements for storage and handling.
301.25 Storage of high explosives.
301.26 Storage of low explosives.
301.27 Storage of detonators.
301.28 Storage of fuse.
301.29 Storage of explosives ingredients.
301.30 Modification of storage and handling requirements.

§ 301.24 *General requirements for storage and handling*—(a) *Applicability of regulations.* Sections 301.24 to 301.30, inclusive, are applicable only to those explosives specifically enumerated in § 301.2 (b), beginning with "Amatol" and ending with "Trinitroxylene", and to those ingredients of explosives specifically enumerated in § 301.2 (c) beginning with "Chlorates" and ending with "Phosphorus."

For convenience in setting forth applicable storage requirements in §§ 301.25–301.29, the explosives enumerated in § 301.2 (b) are here classified into (1) high explosives, including dynamites, permissible explosives and nitroglycerin, (2) low explosives, including blasting powder (black and pellet powder) and gunpowder, (3) detonators, including blasting, detonating and percussion caps and electric blasting caps, and (4) fuse of all varieties. Standards are also prescribed for the storage of explosives ingredients and blasting device heaters containing explosives ingredients.

(b) *Protection required.* All explosives and ingredients of explosives must at all times be safely stored and handled and adequately protected against theft. The standards set forth in §§ 301.24–301.29, inclusive, are minimum requirements only. Compliance with these standards does not relieve persons storing or handling explosives or ingredients of explosives, whether on the surface or underground, from the duty to take such additional measures as a reasonable man, acting with ordinary prudence, would

[1] 7 F.R. 305, 1103, 1976, 3876, 4758, 5901, 8175, 9606; 8 F.R. 1343, 3080, 4141, 15313; 9 F.R. 1502.

take in the same or similar circumstances to safeguard and protect such explosives or ingredients, or from the duty to comply with other Federal, State or local laws or regulations.

(c) *Storage.* All explosives and ingredients of explosives must be kept in appropriate storage facilities unless:

(1) They are in the process of manufacture; or

(2) They are being physically transferred from one person to another or are being otherwise physically handled on the operating premises of a licensee; or

(3) They are being transported; or

(4) They are in an amount not in excess of a daily supply and are being used in the operations of a licensee.

Whether storage facilities are appropriate depends upon such factors as the type and amount of the explosives or ingredients stored and the location of the storage facilities.

All storage magazines must be properly constructed, safely located and securely locked. Magazines shall be kept locked at all times except when explosives or ingredients are being deposited, removed or inspected by an authorized person. Except when weather conditions prohibit, magazines in which explosives are stored shall be opened and inspected at intervals not greater than three days to determine if the explosives are intact or whether there is evidence of improper or unauthorized entry or attempted entry into the magazine, or removal of the magazine or its contents.

(d) *Handling, use and transportation*—(1) *General requirements.* Whenever explosives or ingredients of explosives are in the process of manufacture, or whenever explosives or ingredients of explosives in use in the operations of a licensee, not in excess of a daily supply, are not stored in accordance with the requirements for storage in these regulations, or whenever explosives or ingredients of explosives are being physically transferred from one person to another or are being otherwise physically handled on the operating premises of a licensee, they must be continuously and effectively guarded to protect them against theft. Any person guarding explosives or ingredients of explosives shall be a licensee or an employee of a licensee to whom the explosives or ingredients have been distributed by a licensed foreman. This paragraph is applicable to the transportation of explosives and ingredients of explosives by vehicle on private premises or along private roads and to underground transportation, but is not applicable to transportation of explosives or ingredients within the jurisdiction of the Interstate Commerce Commission.

(2) *Provision for emergency storage.* Every person who holds a manufacturer's, vendor's or purchaser's license and who engages in an occupation in which explosives are regularly handled or used (even though the licensee does not contemplate that the amount of explosives in his possession on any one day will exceed his requirements for that day) shall, in order to guard against emergencies requiring the immediate or overnight storage of explosives, provide or have readily available at or near the place where such operations are carried on, a magazine complying with the standards set forth in these regulations.

(e) *Access to magazines*—(1) *General requirements.* Except as hereinafter provided:

(i) No person, as employee, agent, independent contractor or otherwise, shall enter a permanent magazine or open a box-type magazine in which explosives are stored unless such person is individually licensed under the act or is accompanied by a person so licensed;

(ii) No licensee shall permit any person, whether as employee, agent, independent contractor or otherwise, to enter a permanent magazine or open a box-type magazine in which the licensee's explosives are stored unless such person is individually licensed under the act or is accompanied by a person so licensed;

(iii) No person, as employee, agent, independent contractor or otherwise, shall have in his possession a key or a copy of the combination to a lock on a magazine in which explosives are stored unless such person is individually licensed under the act;

(iv) No licensee shall permit any person, whether as employee, agent, independent contractor or otherwise, to have a key or knowledge of the combination to a lock on a magazine in which explosives are stored unless such person is individually licensed under the act.

(2) *Exceptions.* The provisions of this paragraph shall not apply:

(i) To containers which hold only the daily supply of explosives issued by a properly licensed person,

(ii) To magazines located at explosives manufacturing plants where the premises on which the magazines are located are fenced or otherwise effectively guarded, or

(iii) To Explosives Investigators and other designated officers of the Bureau of Mines or Federal, State or local law enforcement officers or investigators, who are authorized to inspect places where explosives or explosives ingredients are stored.

§ 301.25 *Storage of high explosives*—(a) *High explosives in amounts exceeding 125 pounds.* All high explosives in amounts exceeding 125 pounds shall be stored in permanent magazines which are theft-resistant, fire-resistant and bullet-resistant.

(1) *Construction of permanent magazines.* Permanent magazines shall be of a building type, an igloo or army type, a portable type, or a tunnel or dugout type, whether located on or exposed to the surface or underground. Walls of building-type magazines shall be substantially constructed of theft- and bullet-resistant materials. Walls shall meet the following standards or be constructed of other materials in a manner which will make them at least equally theft- and bullet-resistant:

(i) Solid construction, not less than 6 inches in thickness of materials such as concrete, masonry, medium soft brick or wood; or

(ii) Filled construction, such as concrete blocks with the cells filled with screened sand, weak concrete, cement mortar or other effective bullet-resistant filler; or exterior and interior wooden walls not less than 6 inches apart with the space between filled with screened sand, weak concrete, cement mortar or other effective bullet-resistant filler, and the exterior walls covered with sheet iron not lighter than No. 26 gauge, or other fire-resistant material; or

(iii) Lined construction, such as steel plate not lighter than No. 14 gauge, lined with weak concrete, cement mortar, brick, or screened sand not less than 6 inches in thickness, or with hard wood not less than 2 inches in thickness, or with soft wood not less than 3 inches in thickness.

The same standards shall govern the construction of any artificial enclosing wall for tunnel- or dugout-type magazines on or exposed to the surface of the ground. Any artificial enclosing wall for permanent underground magazines shall be substantially constructed of wood not less than 2 inches in thickness or of other material of equivalent or greater strength.

Foundations of building-type magazines shall be substantially constructed, and any space between the floor and the ground shall be enclosed in such a manner as to prevent the entrance of persons, animals, sparks and firebrands.

Roofs of building-type magazines shall be fire-resistant and substantially constructed to resist theft, as for example, by ¾-inch sheathing covered with sheet iron or slate. Roofs not constructed of fireproof material shall be covered with sheet iron not lighter than No. 26 gauge or other fire-resistant material. The roofs of magazines so located that it is possible to fire bullets directly through the roof into the explosives shall be made bullet-resistant by material of construction, or by a ceiling that forms a tray containing not less than a 4-inch thickness of sand or other equally effective bullet-resistant filler erected in the interior of the magazine, or by other methods.

Doors of magazines on or exposed to the surface of the ground shall be constructed of ⅜-inch steel plate lined with a 2-inch thickness of wood; or of a thinner steel plate with a greater thickness of wood, at the rate of one additional inch of wood for each ⅛-inch decrease in the thickness of the steel plate; or of wooden walls at least 4 inches apart and filled with screened sand or other effective bullet-resistant filler, the exterior being covered with sheet iron not lighter than No. 26 gauge, or other fire-resistant material; or of wood not less than 6 inches in thickness; or of reinforced concrete not less than 4 inches in thickness. Doors of magazines located underground shall be substantially constructed of wood not less than 2 inches in thickness or of other material of equivalent or greater strength.

Doors of all permanent magazines shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of a mortise lock and a padlock; or with a mortise lock that requires two keys to open; or with a 3-point lock. Pad-

locks and mortise locks shall be the equivalent of 5-tumbler jarproof locks. Doors shall be provided with strong hinges, hasps and staples attached by welds, rivets, or by bolts fitted with lockwashers and nuts on the inside of the magazine and installed in such a manner that the fastening cannot be removed when the magazine is locked.

Magazines shall have no openings except for entrance and ventilation. Foundation vents shall be of an offset type construction, and all vents shall be effectively protected with metal screening or otherwise constructed to prevent the entrance of persons, animals, sparks, firebrands or the direct penetration of bullets which can detonate the explosives.

(2) *Marking of premises.* The premises on which a permanent magazine is located shall be conspicuously marked by signs containing the words "Explosives—Keep Off." Such signs shall adequately warn any person approaching the magazine of the presence of explosives but the signs shall not be so placed as to direct general public attention to the location of the magazine. No signs shall be placed on surface magazines or barricades or be so located that a bullet passing directly through the face of a sign will strike the magazine.

(b) *High explosives in amounts not exceeding 125 pounds.* High explosives in amounts of 125 pounds or less may be stored in permanent magazines complying with the standards set forth in § 301.25 (a), including subparagraphs (1) and (2). If not so stored, such high explosives shall be stored in box-type magazines which are theft-resistant.

(1) *Construction of box-type magazines.* Box-type magazines shall be strongly constructed of 2-inch hard wood or of 3-inch soft wood or other equally theft-resistant material. Any metal magazine shall be lined with a non-sparking material. Doors or lids shall be provided with strong hinges, hasps and staples attached by welds, rivets, or by bolts fitted with lockwashers and nuts on the interior of the magazine and installed in such a manner that the fastening cannot be removed when the magazine is locked. Box-type magazines shall be equipped with at least one lock equivalent to a 5-tumbler jarproof lock.

(2) *Location of box-type magazines.* Box-type magazines, when located outside a building, shall be securely anchored. No magazine shall be placed in a building containing oil, grease, gasoline, waste paper or other highly inflammable materials nor shall a magazine be placed less than 20 feet from a stove or furnace or open fire or flame, or less than 5 feet from other sources of external heat.

(3) *Marking of magazines.* Box-type magazines shall be painted red or another distinctive color and clearly and conspicuously marked "Explosives."

§ 301.26 *Storage of low explosives*—(a) *Low explosives in amounts exceeding 125 pounds.* All low explosives in amounts exceeding 125 pounds shall be stored in permanent magazines complying with all of the standards set forth in § 301.25 (a) including subparagraphs (1) and (2), except that permanent magazines for the storage of low explosives need not be bullet-resistant. Any metal magazine shall be lined with a non-sparking material.

(b) *Low explosives in amounts not exceeding 125 pounds.* All low explosives in amounts of 125 pounds or less may be stored in permanent magazines complying with the standards set forth in § 301.25 (a) or § 301.26 (a). If not so stored, such low explosives shall be stored in box-type magazines complying with all of the standards set forth in § 301.25 (b) including subparagraphs (1), (2) and (3).

§ 301.27 *Storage of detonators*—(a) *Deonators in numbers of 1,000,000 or more.* All detonators in numbers of 1,000,000 or more shall be stored in permanent magazines complying with all of the standards set forth in § 301.25 (a), including subparagraphs (1) and (2).

(b) *Detonators in numbers of more than 5,000 and less than 1,000,000.* All detonators in numbers of more than 5,000 but less than 1,000,000 shall be stored in permanent magazines complying with all of the standards set forth in § 301.25 (a), including subparagraphs (1) and (2), except that permanent magazines for the storage of detonators need not be bullet-resistant. Any metal magazine shall be lined with a non-sparking material.

(c) *Detonators in numbers of 5,000 or less.* All detonators in numbers of 5,000 or less may be stored in permanent magazines as above indicated. If not so stored, such detonators shall be stored in box-type magazines complying with all of the standards set forth in § 301.25 (b), including subparagraphs (1), (2) and (3).

(d) *Storage with other explosives.* No detonator shall be stored in any magazine containing high or low explosives or blasting device heaters.

§ 301.28 *Storage of fuse.* Fuse may be stored in permanent magazines or in box-type magazines together with high or low explosives or detonators. If not so stored, fuse shall be stored in locked containers, locked rooms, or otherwise adequately protected against theft.

§ 302.29 *Storage of explosives ingredients*—(a) *Explosives ingredients generally.* Except as provided in paragraph (b), explosives ingredients shall be stored in permanent magazines, box-type magazines, locked containers, locked rooms, or locked buildings, or shall be otherwise adequately protected against theft.

(b) *Blasting device heaters*—(1) *Blasting device heaters in total weights exceeding 125 pounds.* All blasting device heaters containing ingredients of explosives, when the total weight of such heaters exceeds 125 pounds, shall be stored in permanent magazines complying with all of the standards set forth in § 301.25 (a), including subparagraphs (1) and (2), except that permanent magazines for the storage of blasting device heaters need not be bullet-resistent. Any metal magazine shall be lined with a non-sparking material.

(2) *Blasting device heaters in total weights not exceeding 125 pounds.* All blasting device heaters containing ingredients of explosives, when the total weight of such heaters is 125 pounds or less, may be stored in permanent magazines, as above indicated. When not so stored, such blasting device heaters shall be stored in box-type magazines complying with all of the standards set forth in § 301.25 (b), including subparagraphs (1), (2), and (3).

(3) *Storage with explosives.* No blasting device heaters shall be stored in any magazine containing high or low explosives or detonators.

§ 301.30 *Modification of storage and handling requirements*—(a) *Grounds for modification.* In unusual circumstances when compliance with any requirement of §§ 301.24–301.29 is physically impractical, prohibitively expensive or for any reason not feasible, the requirement may be suspended or modified by the procedure set forth in paragraph (b):

(1) When the method of storing or handling explosives or explosives ingredients affords a measure of safety and protection to explosives or explosives ingredients equivalent to that provided by the standards described in these regulations; or

(2) When the method of storing or handling explosives or explosives ingredients, in the particular circumstances, affords the greatest feasible measure of safety and protection to such explosives or explosives ingredients; or

(3) When, in the judgment of the Director, other good and sufficient reasons justify relaxation of any requirement and the safety or security of persons or of buildings, railroads, highways, underground workings, or other property is not thereby unduly threatened or impaired.

(b) *Procedure for modification.* Any licensee may request suspension or modification of any requirement of §§ 301.24–301.29. Such request should be made in writing, and should clearly indicate, in the light of the provisions of paragraph (a) of this section, the nature of the request and the reasons therefor. The request should be addressed to the Explosives Control Division, Bureau of Mines, Washington 25, D. C. The licensee will be notified in writing if the request is granted in whole or in part. If any licenseee, after having possession of a copy of §§ 301.24–301.29 or notice of their provisions, fails to request suspension or modification of any requirement of such regulations, or fails to make such a request within five days after being informed by a representative of the Bureau of Mines of his noncompliance with any requirement of §§ 301.24–301.29, he shall be subject to all of the penalties for the violation of these regulations.

(55 Stat. 863; 50 U.S.C. App., Sup., 121 et seq.)

R. R. SAYERS,
Director.

Approved: March 16, 1944.

MICHAEL W. STRAUS,
First Assistant Secretary,
Department of the Interior.

[F. R. Doc. 44-3856; Filed, March 18, 1944; 11:38 a. m.]

Chapter IX—War Production Board

Subchapter B—Executive Vice-Chairman

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 1010—SUSPENSION ORDERS

[Suspension Order S-499]

BERORN COMPANY

Louis Berman and Samuel M. Ornsteen, co-partners doing business as Berorn Company, at 341 Middlesex Street, Lowell, Massachusetts, have been engaged in the manufacture of jungle hammocks, coveralls and other products. On or about March 16, 1943, Berorn Company received delivery of certain textile processing machinery for which it paid the City of Lowell $1025. No application was made to the War Production Board for authorization to accept delivery of such machinery, as was required by General Limitation Order L-215, before delivery thereof was actually received, although both Louis Berman and Samuel M. Ornsteen knew about General Limitation Order L-215 and were aware that authorization was required. Subsequent to an investigation by the War Production Board, Berorn Company filed on or about April 21, 1943, an application on Form PD-744 signed by Samuel M. Ornsteen, for retroactive authorization to accept delivery of such machinery. The application contained several material, wilful, false and misleading statements, among which was the representation that all twelve of said machines were required in the performance of a Government contract, whereas the partners knew that only three machines were suitable for such work. These misrepresentations constituted violations of Priorities Regulation No. 1.

These actions constituted wilful violations of General Limitation Order L-215 and Priorities Regulation No. 1, and have diverted critical materials to uses not authorized by the War Production Board. In view of the foregoing, it is hereby ordered, that:

§ 1010.499 *Suspension Order No. S-499.* (a) Deliveries of material and products, directly or indirectly, to Louis Berman and Samuel M. Ornsteen, individually or as partners doing business as Berorn Company or otherwise, their or its successors or assigns, shall not be accorded priority over deliveries under any other contract or order, and no preference ratings shall be assigned, applied or extended to such deliveries by means of preference rating certificates, preference rating orders, general preference orders or any other orders or regulations of the War Production Board, unless hereafter specifically authorized in writing by the War Production Board.

(b) No allocation shall be made to Louis Berman and Samuel M. Ornsteen, individually or as partners doing business as Berorn Company or otherwise, their or its successors or assigns, directly or indirectly, of any material the supply or distribution of which is governed by any order of the War Production Board, unless hereafter specifically authorized in writing by the War Production Board.

(c) Nothing contained in this order shall be deemed to relieve Louis Berman or Samuel M. Ornsteen, individually or as partners doing business as Berorn Company or otherwise, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions hereof.

(d) This order shall take effect on March 17, 1944, and shall expire on July 17, 1944.

Issued this 10th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F.R. Doc. 44-3819; Filed, March 17, 1944; 4:27 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-500]

LOWELL SHOE COMPANY, INC.

Lowell Shoe Company, Inc., 341 Middlesex Street, Lowell, Massachusetts, is a manufacturer of women's shoes. It manufactured 34,162 more pairs of women's shoes during the period between March 1, 1943, and August 31, 1943, within certain of its higher priced lines than was permitted by Conservation Order M-217. The responsible officers of Lowell Shoe Company, Inc., had knowledge of Conservation Order M-217 and the violation was therefore wilful. On March 15, 1943, it placed a bid with the City of Lowell for certain textile processing machinery at a price of $1025. This order was accepted and the machinery was later delivered to and paid for by the Berorn Company, one of whose partners was an officer and principal stockholder of the Lowell Shoe Company, Inc. No application was made to the War Production Board for authorization to order such machinery, as was required by General Limitation Order L-215, although the responsible officials of Lowell Shoe Company, Inc., had knowledge of the Limitation Order prior to the date it placed such order. Lowell Shoe Company, Inc., wilfully violated General Limitation Order L-215 by ordering such machinery without authorization of the War Production Board.

These wilful violations of Conservation Order M-217 and General Limitation Order L-215 have diverted scarce material to uses not authorized by the War Production Board. In view of the foregoing, it is hereby ordered, That:

§ 1010.500 *Suspension Order No. S-500.* (a) Lowell Shoe Company, Inc., its successors or assigns, shall not complete the manufacture of more than thirty-five thousand (35,000) pairs of civilian footwear during the effective period of this order. Such footwear shall be limited to Lowell Shoe Company's existing price lines, but may be divided among such lines as the company may determine under paragraph (i) (iv) of Conservation Order M-217 as amended January 12, 1944.

(b) Nothing contained in this order shall be deemed to relieve Lowell Shoe Company, Inc., its successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect on March 17, 1944, and shall expire on July 17, 1944.

Issued this 10th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F.R. Doc. 44-3820; Filed, March 17, 1944; 4:27 p. m.]

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, as Amended Mar. 18, 1944]

§ 944.1 *Purpose and scope of this regulation; definitions.* This regulation states the basic rules of the War Production Board which apply to all business transactions unless they are covered by more specific regulations or orders of the War Production Board which are inconsistent with this regulation. It includes transactions which are not subject to priority control in any other way than by this regulation. The following definitions apply for purposes of this regulation and any other regulation or order of the War Production Board, unless otherwise indicated.

(a) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(b) "Defense order" means:

(1) Any contract or purchase order for material or equipment to be delivered to, or for the account of the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Selective Service System, the Civil Aeronautics Administration, the National Advisory Committee for Aeronautics, the Office of Scientific Research and Development, Defense Supplies Corporation, Metals Reserve Company.

(For status of Panama Canal and Coast Guard in general see Interpretation 1 e.)

(2) Any contract or purchase order placed by any agency of the United States Government for material or equipment to be delivered under the Act of March 11, 1941, entitled "An Act to Promote the De-

fense of the United States" (Lend-Lease Act).

(c) "Material" means any commodity, equipment, accessory, part, assembly or product of any kind.

§ 944.1a *Certain defense orders rated AA–5.* Every defense order placed after March 18, 1944, for any material which has not been specifically assigned a higher preference rating is hereby assigned a rating of AA–5.

§ 944.2 *Rules for acceptance and rejection of rated orders.* Every order bearing a preference rating must be accepted and filled regardless of existing contracts and orders except in the following cases:

(a) A person must not accept a rated order for delivery on a date which would interfere with delivery on equal or higher rated orders which he has already accepted, or if delivery of the material ordered would interfere with delivery on an order which the War Production Board has directed him to fill for that material or for a product which he makes out of it.

(b) A person must not accept a rated order (except an AAA) for delivery on a date which can be met only by using material which was specifically produced for delivery on another rated order, and which is completed or is in production and scheduled for completion within 15 days.

(c) If a person, when receiving a rated order bearing a specific delivery date, does not expect to be able to fill it by the time requested, he must not accept it for delivery at that time. He must either (1) reject the order, stating when he could fill it, or (2) accept it for delivery on the earliest date he expects to be able to deliver, informing the customer of that date. He may adopt either of these two courses, depending on his understanding of which his customer would prefer. He may not reject a low rated order just because he expects to receive conflicting higher rated orders in the future, nor because he would for any reason prefer to have higher ratings.

(d) If a person receives a rated order which is not required by § 944.8 to bear a specific delivery date and which he cannot fill promptly, he must accept it as long as he expects to be able to fill it within a reasonable time, unless he makes a consistent practice of not carrying a backlog and rejecting orders which cannot be promptly filled. He may treat different classes of customers differently in this respect, but only if there is a reasonable basis for the distinction. For example, he may make a regular practice of rejecting unfillable orders from all retailers but holding for backlog orders from all industrial customers.

(e) A rated order need not be (but may be) accepted in the following cases, but there must be no discrimination in such case against rated orders, or between rated orders of different customers:

(1) If the person seeking to place the order is unwilling or unable to meet regularly established prices and terms of sale or payment. (When a person who has a rating asks a supplier to quote his regularly established prices and terms of sale or payment, the supplier must do so, except that if this would require detailed engineering or accounting work, he may give his best estimate without such work and state that it is not binding. However, the supplier need not quote if he is not required to accept the rated order and knows that he will not do so if he receives it.)

(For status of OPA ceiling prices under this section see Interpretation 2. For rule covering types of sales and types of purchasers see Interpretation 3.)

(2) If the order is for the manufacture of a product or the performance of a service of a kind which the person to whom the order is offered has not usually made or performed, and in addition if either (i) he cannot fill the order without substantially altering or adding to his facilities or (ii) the order can readily be performed by someone else who has usually accepted and performed such orders.

(3) If the order is for material which the person to whom the order is offered produces or acquires for his own use only, and he has not filled any orders for that material within the past two years. If he has, but the rated order would take more than the excess over his own needs, he may not reject the rated order unless filling it would interfere with equal or higher rated orders already on hand, or orders which the War Production Board has directed him to fill, for the material or for a product which he makes out of it.

(4) If filling the order would stop or interrupt his production or operations during the next 40 days in a way which would cause a substantial loss of total production or a substantial delay in operations.

(f) Any person who fails or refuses to accept an order bearing a preference rating shall, upon written request of the person placing the order, promptly give his reasons in writing for his failure or refusal.

(For types of contracts which must be deferred see Interpretation 1b. For rule as to use of facilities of controlled materials producers see Interpretation 4.)

(g) Some orders of the War Production Board provide special rules as to the acceptance and rejection of orders for particular materials. In such cases, the rules stated above in this section are inapplicable to the extent that they are inconsistent with the applicable order of the War Production Board. In addition, the War Production Board may specifically direct a person in writing to fill a particular purchase order or orders. In such cases he must do so without regard to any of the above rules in this § 944.2, except that he may insist upon compliance with regularly established prices and terms of payment.

§ 944.3 *Report to War Production Board of improperly rejected orders.* When a rated order is rejected in violation of this regulation, the person who wants to place it may file a report of the relevant facts with the War Production Board, which will take such action as it considers appropriate after requiring an explanation from the person rejecting the order.

§ 944.4 *Assignment of preference ratings.* Preference ratings may be assigned to contracts, orders or deliveries by means of preference rating certificates, or by rules, regulations or orders of the War Production Board assigning ratings to particular orders or deliveries or to specified classes of orders or deliveries. Such ratings may be assigned to accepted contracts or orders, and also to orders which have not been placed or accepted at the time the rating is applied for. Ratings are also assigned by certain governmental agencies, authorized by the War Production Board, to their own purchase orders or contracts. In some cases the War Production Board will raise or lower ratings already assigned and in that event the rules of Priorities Regulation 12 (§ 944.33) apply. Specific orders may also be issued as to particular deliveries or as to the use of particular facilities, without assigning ratings thereto.

§ 944.4a *Cancellation of preference ratings.* If a preference rating which has been assigned to a named individual is revoked, he must immediately, in the case of each order to which he has applied the rating, either cancel the order or inform his supplier that it is no longer to be treated as rated. If a regulation or order of the War Production Board which assigns a rating to a class or group of persons without naming them individually is revoked after March 18, 1944, they may not apply the rating to orders placed after the revocation. Orders to which they have already applied the rating for delivery within three months after the revocation remain validly rated, but, in the case of each order which they have placed for delivery after three months from that date, they must either cancel the order or withdraw the rating. If any person receives notice from his customer that the customer's order is no longer rated or that the customer's order is cancelled, he must immediately withdraw any extensions of the rating which he has made to orders placed by him. The War Production Board may specify different rules for the treatment of outstanding ratings at the time it revokes them.

(For the rules about transferring preference ratings when contracts are assigned, see Interpretation 5.)

§ 944.5 *Sequence of preference ratings.* Preference ratings in order of precedence are: AAA, AA–1, AA–2, AA–2X, AA–3, etc.; A–1–a, A–1–b, etc.; A–2, A–3, etc.; B–1, B–2, etc. The letter "X" after a numeral indicates that such rating is inferior to the rating of the same numeral and superior to the rating of the next numeral. (For example, AA–2X is inferior to AA–2 and superior to AA–3.) The War Production Board, after March 18, 1944, will not assign ratings below AA–5 but any such ratings which were assigned before that date may be applied or extended.

§ 944.6 *Doubtful cases.* Whenever there is doubt as to the preference rating applicable to any order, or as to whether a particular order is a defense order, the matter is to be referred to the War Production Board for determination, with a statement of all pertinent facts.

§ 944.7 *Sequence of filling rated orders.* (a) Every person who has rated orders on hand must schedule his operations, if possible, so as to fill each rated order by the required delivery or performance date (determined as explained in § 944.8). If this is not possible for any reason, he must give precedence to higher over lower rated orders and to all rated over unrated orders. However, material specifically produced for a rated order may not be used to fill a higher rater order (except AAA) subsequently received if the material is completed or is in production and scheduled for completion within 15 days. A low rated order bearing an earlier delivery or performance date must be filled before a higher rated order bearing a later delivery or performance date if it is possible to fill both of them on the required dates.

(b) As between conflicting orders which bear the same preference rating, precedence must be given to the order which was received first with the rating. As between conflicting orders received with the same preference rating on the same date, precedence must be given to the order which has the earlier required delivery or performance date.

(See Interpretation 1 c.)

§ 944.8 *Delivery or performance dates.* (a) Every rated order placed after March 18, 1944, must specify delivery or performance on a particular date or dates or within specified periods of not more than 31 days each, which in no case may be earlier than required by the person placing the order. Any order which fails to comply with this rule must be treated as an unrated order. The words "immediately" or "as soon as possible", or other words to that effect, are not sufficient for this purpose. There are four exceptions to this rule, where a rated order need not bear a required delivery or performance date as long as it is understood that delivery or performance is required as soon as practicable or customary: (1) Orders for maintenance, repair or operating supplies as identified by the symbol MRO or otherwise; (2) orders placed with or by persons who normally take physical delivery of the item ordered to hold it in stock for resale; (3) orders for not more than $100; (4) orders rated AAA.

(b) The required delivery or performance date, for purposes of determining the sequence of deliveries or performance pursuant to § 944.7, shall be the date on which delivery or performance is actually required. The person with whom the order is placed may assume that the required delivery or performance date is the date specified in the order or contract unless he knows either (1) that the date so specified was earlier than required at the time the order was placed, or (2) that delivery or performance by the date originally specified is no longer required by reason of any change of circumstances. A delay in the scheduled receipt of any other material which the person placing the order requires prior to or concurrently with the material ordered, shall be deemed a change of circumstances within the meaning of the foregoing sentence.

(c) If, after accepting a rated order which specifies the time of delivery, the person with whom it is placed finds that he cannot fill it on time or within 15 days following the specified time, owing to the receipt of higher rated orders or for other reasons, he must promptly notify the customer, telling him approximately when he expects to be able to fill the order.

§ 944.9 *Report to War Production Board of improper delay.* When delivery or performance of a rated order is unreasonably or improperly delayed, the customer may file a report of the relevant facts with the War Production Board, which will take such action as it considers appropriate after requiring an explanation from the person with whom the order is placed.

§ 944.10 *Effect of other regulations and orders.* Specific allocations or other directions of the War Production Board for delivery of material or the use of facilities must be complied with regardless of ratings, unless otherwise specified. If restrictions under two or more regulations or orders of the War Production Board apply to the same subject matter, the most restrictive controls unless otherwise expressly provided. Defense orders or other rated orders are not exempt from restrictions on the amount of materials that may be made or delivered unless expressly so stated.

§ 944.11 *Material to be used for purposes for which priorities assistance granted.* (a) Any person who obtains material with priorities assistance must, if possible, use or dispose of it (or of the product into which it has been incorporated) for the purpose for which the assistance was given. This restriction applies to material obtained by means of a preference rating, allocation, specific direction, CMP allotment, or any other action of the War Production Board. Physical segregation is not required as long as the restrictions applicable to any specific lot of material or product are observed with respect to an equivalent amount of the same material or product. The foregoing restriction does not apply to scrap normally generated in the fabrication of material, but the use and disposition of certain forms of scrap are restricted by certain other regulations and orders of the War Production Board.

(b) When a material, or a product into which it has been incorporated, can no longer be used for the purpose for which the priorities assistance was given (for example, when the priorities assistance was given to fill a particular contract or purchase order and the material or product does not meet the customer's specifications or the contract or purchase order is cancelled), its use or disposition shall be restricted as follows:

(1) If the holder does not regularly sell similar materials or products in the course of his business, he may sell or transfer it only as provided in Priorities Regulation 13 (§ 944.34). Also, he may use it for any purpose for which he has the necessary preference rating and if he satisfies any other conditions which would be necessary in order to buy it for use by him from someone else under that regulation;

(2) The holder may use or dispose of the material or product to fill, in accordance with this regulation, a contract or purchase order bearing a preference rating of AA-5 or higher (or a rating as high as that with which the material was obtained, if it was obtained with a rating lower than AA-5), unless either the filling of the contract or purchase order or the fabrication of the material or product to fill that type of contract or purchase order is prohibited by an order or regulation of the War Production Board.

(3) The holder may use it to fill his own needs (such as meeting his requirements for maintenance, repair or operating supplies) if he has been authorized to obtain similar materials or products for that purpose by applying or extending a preference rating of AA-5 or higher (or a rating as high as that with which the material was obtained if he obtained it with a rating lower than AA-5), *Provided*, That use of the same for that purpose is not prohibited by an order or regulation of the War Production Board;

(4) It may be redelivered to the person from whom it was obtained, if he is willing to accept redelivery; or it may be delivered to the manufacturer, if he is willing to accept it;

(5) It may be used or disposed of as scrap, unless the use or disposition is prohibited by other regulations or orders of the War Production Board; or

(6) It may be used or disposed of in any other manner specifically authorized in writing by the War Production Board. Field offices of the Board will advise persons making inquiry of the method of obtaining authorization.

(c) In any event, if a material or product is a controlled material or a Class A product obtained pursuant to an allotment under CMP Regulation 1, the holder may use it in accordance with paragraph (u) of that regulation.

§ 944.12 *Intra-company deliveries.* When any rule, regulation or order of the War Production Board prohibits or restricts deliveries of any material by any person, such prohibition or restriction shall, in the absence of a contrary direction, apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

(For rule as to effect of inventory and small order provisions on separate operating units of same company see Interpretation 8.)

§ 944.13 *Scope of regulations and orders.* All regulations and orders of the War Production Board (including directions, directives and other instructions) apply to all subsequent transactions even

though they are covered by previous contracts. Regulations and orders apply to transactions in the territories or insular possessions of the United States unless the regulation or order specifically states that it is limited to the continental United States or to the 48 states and the District of Columbia. However, military and naval establishments located outside the 48 states and the District of Columbia are not subject to any rule, regulation or order of the War Production Board unless it specifically states that they are.

(For application of WPB regulations and orders to liquidation sales see Interpretation 1d.)

§ 944.13a *Defense against claims for damages.* No persons shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with any rule, regulation or order of the War Production Board, notwithstanding that any such rule, regulation or order shall thereafter be declared by judicial or other competent authority to be invalid.

§ 944.14 *Inventory restriction.* Unless specifically authorized by the War Production Board, no person shall knowingly make delivery of any material whatever, and no person shall accept delivery thereof if the inventory of such material of the person accepting delivery, in the same or other forms, is, or will by virtue of such acceptance become, in excess of the practicable minimum working inventory reasonably necessary to meet deliveries of the products of the person accepting delivery, on the basis of his current method and rate of operation. Unless specifically authorized by the War Production Board, no person shall process, fabricate, alloy or otherwise alter the shape or form of any material if his inventory of such material in its processed, fabricated, alloyed or otherwise altered shape or form is, or will by virtue of such operation become, in excess of a practicable minimum working inventory thereof. The term "practicable minimum working inventory" is to be strictly construed. The mere fact that the rate of turnover has increased or that materials are difficult to obtain does not justify maintaining inventories above the minimum with which operations can be continued. In the calculation of the practicable minimum working inventory of any person who imports material, either directly or through an agent, deliveries of such imported material to such person may be excluded.

(For application of this section to seasonal industries see Interpretation 1a, and to minimum sale quantities and production runs see Interpretation 7.)

§ 944.15 *Records.* Each person participating in any transaction to which any rule, regulation or order of the War Production Board applies shall keep and preserve for a period of not less than two years accurate and complete records of his inventories of the material to which such rule, regulation or order relates and of the details of all transactions in such materials. Such records shall include the dates of all contracts or purchase orders accepted, the delivery dates specified in such contracts or purchase orders, and in any preference rating certificates accompanying them, the dates of actual deliveries thereunder, description of the material covered by such contracts or purchase orders, description of deliveries by classes, types, quantities, weights and values, the parties involved in each transaction, the preference ratings, if any, assigned to deliveries under such contracts or purchase orders, details of defense orders and all other rated orders either accepted or offered and rejected, and other pertinent information. Records kept by any person pursuant to this section shall be kept either separately from the other records of such person and chronologically according to daily deliveries by such person, or in such form that such a separate chronological record can be promptly compiled therefrom. Whenever a regulation or order requires a person to restrict his operations in proportion to his operations in a base period (for example, an order may forbid him to use more of a certain kind of material than he used in the fourth quarter of 1942) he must make a written record of the base period operations and preserve it, together with any figures and worksheets showing his calculations, for inspection by WPB officials as long as the regulation or order remains in force and for two years after that. Whenever a person is restricted as to the quantity of material he may use in production or the amount he may produce, under quota restrictions, limitation orders, authorized production schedules, special directions or similar provisions, he must keep reasonably adequate records of the material consumed and of production to show whether he is complying with the restrictions. This record-keeping requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Photographic copies of records may be kept. See Interpretation 6.)

§ 944.16 *Audit and inspection.* All records required to be kept by this regulation or by any rule, regulation or order of the War Production Board shall, upon request, be submitted to audit and inspection by its duly authorized representatives.

§ 944.17 *Reports.* Every person shall execute and file with the War Production Board such reports and questionnaires as it shall from time to time request, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

§ 944.18 *Violations.* Any person who violates any provision of this regulation or any other rule, regulation or order of the War Production Board, or who, by any statement or omission, wilfully falsifies any records which he is required to keep, or who otherwise wilfully furnishes false or misleading information to the War Production Board, and any person who obtains a delivery, an allocation of material or facilities, or a preference rating by means of a material and wilful, false or misleading statement, may be prohibited by the War Production Board from making or obtaining further deliveries of material or using facilities under priority or allocation control and may be deprived of further priorities assistance. The War Production Board may also take any other action deemed appropriate, including the making of a recommendation for prosecution under section 35 (A) of the Criminal Code (18 U. S. C. Sec. 80), or under the Second War Powers Act (Public No. 507, 77th Congress, March 27, 1942).

§ 944.19 *Appeals for relief in exceptional cases.* Any person who considers that compliance with a rule or regulation or order of the War Production Board would work an exceptional and unreasonable hardship on him may appeal for relief. The rules for the filing and handling of appeals are given in Priorities Regulation 16.

§ 944.20 *Notification of customers.* Any person who is prohibited from or restricted in making deliveries of any material by the provisions of any rule, regulation or order of the War Production Board shall, as soon as practicable, notify each of his regular customers of the requirements of such rule, regulation or order, but the failure to give notice shall not excuse any customer from the obligation of complying with any requirements applicable to him.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

INTERPRETATION 5

EFFECT OF ASSIGNMENT OF A RATED ORDER OR CONTRACT ON SEQUENCE OF DELIVERY

When a rated contract is assigned, the rating remains applicable to the contract as assigned if, but only if, the assignee uses the material covered by the contract for substantially the same purpose for which the rated contract was placed.

Examples. (1) The Navy places a rated order with A and A extends the rating to B. Later the Navy and A cancel the contract and the Navy enters into a new contract with C for delivery of the same product at the same time and applies the same rating to it. A assigns to C his contract with B. The rating which A had extended to B remains valid as of the time it was extended by A, and B must honor it in making delivery to C.

(2) A steel mill places an order for a repair part rated AA-1 under CMP Regulation No. 5. The steel mill finds that it does not need the part but another steel mill needs the same and asks the first mill to assign its contract for the part. The second mill could also apply a AA-1 rating to the delivery. However, it prefers to use the first mill's rating so as to come ahead of the orders which have been placed since the first mill placed its order. The second mill may not make this use of the rating, since the rated order was placed for the repair of the first mill's facilities and the purpose of the order has thus been changed.

(3) The War Production Board assigns a rating on a PD-1A certificate to a textile manufacturer to buy some textile machinery. He places an order with a machinery manufacturer and applies the rating to the order. He decides he does not need the machinery but finds another textile producer who does need the machinery and is willing to pur-

chase the same from him. He therefore assigns the contract for the machinery to the second textile producer. The rating does not apply to the delivery to the second producer since it was assigned by the War Production Board only for the purpose of filling a specific need shown by the first textile producer. (Issued July 24, 1943.)

INTERPRETATION 6

MICROFILM RECORDS

Records required to be kept by § 944.15 of Priorities Regulation No. 1 or by any other order or regulation of the War Production Board may be kept in the form of microfilm or other photographic copies instead of the originals. (Issued Aug. 14, 1943.)

INTERPRETATION 7

MINIMUM SALE QUANTITIES AND PRODUCTION RUNS

(a) *Applicable provisions of the regulations.* Section 944.14 of Priorities Regulation No. 1 forbids the making or acceptance of a delivery which will give the customer more than the "practicable minimum working inventory reasonably necessary" for him to make his own deliveries. A similar provision in paragraph (b) (2) of Priorities Regulation No. 3 says that a customer who is applying a rating for which no specific quantities have been authorized may use it only to get the "minimum required amounts".

(b) *Factors to be considered in determining how much can be ordered and delivered.* In determining a customer's minimum inventory "reasonably necessary" under Priorities Regulation No. 1 or his "minimum required amounts" under Priorities Regulation No. 3, it is proper in some cases to consider not only the immediate needs of the customer's plant but also whether the amount which he orders will be a minimum production run for his supplier. The customer may order and receive (and the supplier may deliver) the customer's requirements for a longer period in advance than he actually needs at the time of delivery if, but only if, it is not practicable for him to get the item from any supplier in the smaller quantities which he presently needs. The supplier may reject his customer's order if it is less than the minimum which he regularly sells, as explained in Interpretation 3 of Priorities Regulation No. 1. This means that if he regularly sells not less than a certain minimum production run, he does not have to accept orders which either total less than the run or which call for individual deliveries of less than the run.

(c) *Relief in exceptional cases.* If the conditions stated in paragraph (b) above cannot be satisfied but the customer wants to order or accept delivery of more than his actual needs at the time of delivery, he should apply to the Redistribution Division of the War Production Board for permission, stating the facts and why it is not practicable to satisfy the conditions of paragraph (b).

(d) *Special provisions for controlled materials and Class A products.* This interpretation does not apply to deliveries of controlled materials or Class A products under the Controlled Materials Plan. Rules regarding deliveries of controlled materials are given in CMP Regulation No. 2, and those for Class A products are explained in Interpretation 9 to CMP Regulation No. 1.

(e) *Specific limits on ratings may not be exceeded.* This interpretation does not apply to the use of a rating where a specific quantity is stated in the instrument assigning the rating. If a person is assigned a rating for a specific amount of material, he may not use it to get more. If he finds that he can only get the material in larger quantities, he should apply for a modification of the rating. (Issued Nov. 3, 1943.)

INTERPRETATION 8

EFFECT OF INVENTORY AND SMALL ORDER PROVISIONS ON SEPARATE OPERATING UNITS OF THE SAME COMPANY

(a) If an individual plant, branch store, division or other operating unit normally keeps separate inventory from the rest of the corporation or firm, inventory restrictions in WPB orders and regulations apply to it separately. Thus, although another unit may have exceeded an inventory limit, this does not prevent a unit which has not exceeded it from acquiring additional inventory within the limit.

(b) Likewise, if an order of the War Production Board provides an exemption for small purchases, an operating unit which normally buys separately need not consider purchases made by other units in determining whether it comes within the exemption.

(c) It may happen that the same operating unit will be treated separately for purposes of inventory restrictions but not for purposes of small order exemptions. For example, if a distributor purchases centrally for direct shipment to several outlets which keep separate inventories, the outlets are treated separately for purposes of inventory restrictions but the central purchasing agency must include all its purchases in determining whether a transaction comes within a small order exemption.

(d) This interpretation applies only in cases where a contrary rule is not expressly stated in the applicable War Production Board order or regulation. Also it only applies where the regular business practice of the unit in question is to keep a separate inventory or to buy separately. It does not apply if the regular practice has been changed just for the purpose of coming within this interpretation. (Issued Nov. 22, 1943)

[F. R. Doc. 44-3837; Filed, March 18, 1944; 11:22 a. m.]

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 1a]

INVENTORIES IN SEASONAL INDUSTRIES

The following interpretation is issued with respect to § 944.14 of Priorities Regulation 1:

The question has been raised, in connection with various seasonal industries, whether a company which is engaged in such an industry and which normally stocks up inventory in advance of the season, is forbidden by the foregoing regulation from doing so.

The prohibition against accepting delivery of inventory "in excess of the practicable minimum working inventory reasonably necessary to meet deliveries of the products of the person accepting delivery, on the basis of his current method and rate of operation," does not prevent the acceptance of delivery by such person of his requirements of the inventory in question provided, (a) that such person is not guilty of hoarding, and (b) that the deliveries accepted are no greater and no further in advance than those which he would normally accept in the ordinary course of his business to meet reasonably anticipated requirements.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 1b]

TYPES OF EXISTING CONTRACTS WHICH MUST BE DEFERRED

The following interpretation is issued with respect to Priorities Regulation 1:

Section 944.2 of Priorities Regulation 1, as amended, makes compulsory the acceptance and filling of rated orders for any material "regardless of existing contracts and orders". The "existing contracts" referred to include not only ordinary purchase contracts but other arrangements achieving substantially the same results, though in form they may concern the use of production facilities rather than the material produced. Preference ratings are applicable to facilities as well as materials.

Examples of such "existing contracts" which must be subordinated to higher rated orders are (1) arrangements whereby a producer, regularly engaged in producing a given product for sale to others, leases a portion of his plant, or the whole of it for a relatively short period, as a going concern to one of his customers and operation is continued under the producer's management and with the producer's regular personnel; and (2) arrangements whereby such a producer, in lieu of buying raw materials and selling the product, accepts raw materials belonging to a customer for processing pursuant to a toll agreement or similar undertaking. If the deliveries to be made to such customer carry a preference rating, the sequence of deliveries as compared with deliveries to other persons placing orders with the producer is to be determined as provided in § 944.7 of Priorities Regulation No. 1.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 1c]

SEQUENCE OF DELIVERIES AND PRODUCTION FOR RATED ORDERS

The following interpretation is issued with respect to Priorities Regulation 1:

The provisions of § 944.7 (b) of Priorities Regulation No. 1, as amended, with respect to the sequence of deliveries bearing the same preference rating, are applicable only in cases where different deliveries bearing the same preference rating cannot be made on schedule. If material supply and available facilities permit deliveries bearing the same rating to be made on schedule, Regulation No. 1 does not have any particular effect on the sequence of production for such deliveries. Where it is necessary to choose between deliveries bearing the same preference ratings, delivery to the customer from whom the order was first received with the rating is to be preferred and production schedules must be adjusted accordingly. For example, suppose a rated order is received from one customer

in January for August delivery and another order bearing the same rating is received from a second customer in June calling for July delivery. If both deliveries cannot be made on schedule, the second customer is not permitted to get the material away from the first customer. The producer must defer production on the second order to the extent necessary to make delivery on the first order on the August delivery date. If, on the other hand, both deliveries can be made on schedule, it is not necessary to produce or make delivery on the first customer's order ahead of that of the second.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 1d]

APPLICATION OF ORDERS AND REGULATIONS TO SALES BY AUCTIONEERS, RECEIVERS, TRUSTEES, ETC.

The following interpretation is issued with respect to § 944.18 of Priorities Regulation 1:

The impression has arisen that orders and regulations of the War Production Board which restrict the sale, transfer or delivery of materials, products or equipment, need not be observed in the case of sales made by auctioneers, receivers, trustees in bankruptcy, and other cases where the assets of a business are being liquidated. This impression is erroneous.

All orders and regulations of the War Production Board which control the sale, transfer or delivery of any material, product or equipment, apply to sales made by any person, whether for his own account or for the account of others, and all restrictions upon accepting delivery apply to acceptance of delivery at any type of sale, except as otherwise provided in Priorities Regulation No. 13 with respect to "special sales" or as otherwise provided in any other applicable regulation or order. Any sale made in violation of any order or regulation or any delivery accepted in violation of any order or regulation, subjects parties to all penalties provided by law, including liability for prosecution under Title III of the Second War Powers Act, which specifies penalties up to $10,000 or imprisonment for one year or both.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 1e]

ARMY INCLUDES PANAMA CANAL—NAVY INCLUDES COAST GUARD

The following interpretation is issued with respect to Priorities Regulation 1:

(a) Section 944.1 (b) defines "defense order" to mean, among other things, any contract or purchase order for material or equipment to be delivered to or for the accounts of the Army or Navy of the United States, the Panama Canal or the Coast Guard. At the present time the Panama Canal is part of the Army and the Coast Guard is part of the Navy. Some question has arisen as to whether the specific enumeration in Priorities Regulation No. 1 of the Panama Canal and the Coast Guard means that they do not fall within general references to the Army and Navy in other regulations and orders of the War Production Board. In particular, inquiries have been made as to whether exemptive provisions in limitation and conservation orders in favor of the Army and Navy also provide exemptions for the Panama Canal and the Coast Guard when the latter are not specifically mentioned.

An exemptive or other provision applicable to the Army also applies to the Panama Canal, and a provision applicable to the Navy to the Coast Guard, unless the provision expressly states otherwise.

(b) Question has also been raised as to the status of the Office of Strategic Services under § 944.1 (b) and similar general references to the Army and Navy in other regulations and orders of the War Production Board.

The operations of the Office of Strategic Services are under the direction and supervision of the Joint Chiefs of Staff. Therefore, any provision in a regulation or order of the War Production Board which applies to both the Army and the Navy (but not a provision which applies to the Army alone or to the Navy alone) also covers the Office of Strategic Services.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 2]

REGULARLY ESTABLISHED PRICES AND OPA CEILING PRICES

The following interpretation is issued with respect to Priorities Regulation 1:

An order bearing a preference rating may not be rejected on the ground that the price is below the regularly established price, if the purchaser offers the OPA ceiling price.

Section 944.2 of Priorities Regulation 1 makes the acceptance of rated orders mandatory except in the several situations specified in the section. The only exception dealing with price is contained in paragraph (e) (1) which states that a rated order need not be accepted "if the person seeking to place the order is unwilling or unable to meet regularly established prices and terms of sale or payment".

"Regularly established prices" cannot be higher than OPA ceiling prices. They may, however, be lower.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 3]

REJECTION OF RATED ORDERS FOR FAILURE TO MEET ESTABLISHED PRICES AND TERMS

The following interpretation is issued with respect to Priorities Regulation 1:

(a) Section 944.2 of Priorities Regulation 1 states that every order bearing a preference rating must be accepted and filled with certain exceptions listed in the section. One exception is where a buyer does not "meet regularly established prices and terms of sale or payment". This exception applies to a seller who receives a rated order for quantities which are less than the minimum which he regularly sells. For example, a manufacturer who has been selling only in carload lots may reject a rated order for a less than carload lot.

(b) The exception also applies to the seller who regularly sells only to certain types of trade purchasers, such as wholesalers, jobbers or retailers. He may reject orders from other types of purchasers but only if it is practicable to obtain the merchandise in the required quantity through regular trade channels.

(c) It should be noted that paragraph (e) of § 944.2 in which the above exception appears includes the requirement that "there must be no discrimination in such case against rated orders, or between rated orders of different customers". This means, for example, that a seller who sells principally at wholesale but also at retail to one or more customers may not reject rated retail orders from other customers. However, if a manufacturer or wholesaler has an exclusive distributor, either for all sales or for a particular territory, he may reject orders from other purchasers provided the exclusive distributor is in a position to fill the orders promptly.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 4]

ACCEPTANCE OF RATED ORDERS FOR USE OF FACILITIES BY CONTROLLED MATERIALS PRODUCERS

The following interpretation is issued with respect to Priorities Regulation 1:

Section 944.2 of Priorities Regulation No. 1 provides for the compulsory acceptance of defense and other preference rated orders for the use of facilities, and § 944.7 provides for the sequence of deliveries on such orders. With respect to all such orders placed with a producer of controlled materials, the provisions of these sections are applicable only to the extent that they do not interfere with the acceptance, production, and delivery of orders which he is permitted to fill under paragraph (t) (3) of CMP Regulation No. 1.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

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PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Reg. 1, Interpretation 9, Revocation]

APPLICABILITY OF REGULATIONS AND ORDERS TO TERRITORIES AND INSULAR POSSESSIONS

Intepretation 9, issued with respect to Priorities Regulation 1 is hereby revoked, having been superseded by § 944.13, as amended.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3838; Filed, March 18, 1944; 11:21 a. m.]

PART 1041—PRODUCTION, TRANSPORTATION, REFINING AND MARKETING OF PETROLEUM

[Preference Rating Order P-98-b, as Amended Mar. 18, 1944]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of critical materials for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1041.2 *Preference Rating Order P-98-b*—(a) *Purpose.* This order tells how persons engaged in the petroleum industry may obtain priorities assistance to secure material for their operations.

This order will not be used by foreign operators who will continue to use Priorities Regulation No. 9 and forms provided for in that regulation. Nor will the order be used to secure material to be used in the Territory of Hawaii. Such material may be obtained through the procedure established by the War Production Board Regional Office for Region X rather than through this order. Furthermore, this order will not be used by Canadian operators. All other operators must use the procedures of this order.

In general, this order provides priorities assistance to obtain material for three different purposes, and a separate procedure will be followed for each. They are as follows:

(1) Material for maintenance and repair purposes, operating supplies and laboratory equipment is secured under the MRO procedure, set out in the second major portion of this order (paragraphs (d), (e) and (f)). Preference ratings and an allotment symbol for controlled material are indicated and may be used in accordance with the procedure specified in that section.

(2) Material for most production activities, which include exploratory work and well drilling, is secured through the procedure described in the third major portion of this order headed, "Material for Use in Production" (paragraphs (g), (h), (i) and (j)). The preference rating and allotment symbol for controlled material are indicated in paragraph (h) and may be used only in accordance with the specified delivery order filing procedure, similar to that of the MRO provisions.

(3) A fourth major portion of this order (paragraphs (k), (l), (m) and (n)), describes how materials are secured for use in certain special production operations, natural gasoline recovery, transportation, refining and marketing. Here, application must be made for both a preference rating covering specific materials and an allotment of controlled materials. Any rating and allotment number assigned pursuant to such an application may be used without submitting delivery orders to the Petroleum Administration for War, unless the operator receives special instructions to the contrary.

The materials which are obtained under this order may be used only in accordance with the provisions of applicable Petroleum Administrative orders. A general description of the scope of these orders is given in the appropriate sections of this order.

(b) *Definitions.* (1) "Operator" means any person to the extent that he is engaged in the petroleum industry.

(2) "Petroleum" means crude oil, petroleum products and associated hydrocarbons, including but not limited to natural gas.

(3) "Petroleum industry" includes any of the following activities and any operation directly incident to these activities:

(i) The discovery, development or depletion of petroleum pools (production);

(ii) The extraction or recovery of natural gasoline and associated hydrocarbons (natural gasoline recovery);

(iii) The transportation, movement, loading or unloading of petroleum other than natural gas (transportation);

(iv) The processing, reprocessing or alteration of petroleum, including but not limited to compounding or blending (refining);

(v) The distribution or dispensing of petroleum products (other than natural gas) and the storing of petroleum products incident thereto (marketing);

and shall include for each of the above listed branches of the industry, to the extent applicable, the control of, or the investigation into more effective methods of conducting, petroleum industry operations by means of research, technical or control laboratories.

(4) "Maintenance and repair" means (without regard to accounting practice):

(i) The upkeep of any structure, equipment, or material in a sound working condition or the restoration or fixing of any structure, equipment, or material which has broken down or is worn out, damaged or destroyed;

(ii) Any other use of material not exceeding in material cost $500 for any one complete operation which has not been subdivided for the purpose of coming within this definition.

Maintenance and repair shall not include (a) the drilling, redrilling, deepening, plugging back, or multiple completion of any well or the initial installation on any well of pumping or other artificial lifting equipment, or (b) the extension or the initial construction or installation of a field gas gathering line, or (c) any use of material in connection with a service station or retail outlet other than for upkeep or restoration purposes, or (d) the installation or replacement in marketing of any "equipment" defined as such in Petroleum Administrative Order No. 12.

(5) "Operating supplies" means any material other than material used for maintenance and repair which is essential to and consumed in the petroleum industry and which is normally carried by an operator as operating supplies or which is normally chargeable to operating expense, including among other items, chemicals, additives and blending agents.

(6) "Laboratory equipment" means material or equipment used exclusively for the purpose of controlling, or investigating more effective methods of conducting, petroleum industry operations by means of research, technical or control laboratories. This material or equipment shall not, however, include material for use in the construction of laboratory buildings or other structures.

(7) "Controlled material," "Class A product" and "Class B product" shall have the same meanings, respectively, as in CMP Regulation No. 1 of the War Production Board.

(8) "Delivery order" means any purchase order, contract, release or shipping instruction which constitutes a definite and complete instruction from a purchaser to a seller calling for delivery of any material or product. The term does not include any contract, purchase order, or other arrangement which, although specifying the total amount to be delivered, contemplates that further instructions are to be given before delivery is made.

(9) "Authorized controlled material order" means any delivery order for any controlled material as such (as distinct from a product containing controlled material) which is placed pursuant to an allotment as provided in this order or which is specifically designated to be such by any regulation or order of the Petroleum Administration for War or the War Production Board.

(c) *Priorities assistance for services and particular materials.* (1) An MRO rating assigned by this order may be used to secure services to the extent consistent with Priorities Regulation 3.

(2) No operator may apply a preference rating to obtain any material listed on Schedule A of this order.

(3) No operator may apply a preference rating to obtain any material listed on Schedule B except in accordance with the procedure described in that schedule.

(4) Priorities assistance for the materials covered by Schedule C of this order may also be obtained under this order but only by filing the forms specified on that schedule in accordance with the instructions contained in that schedule. Schedule C includes all items on List B of Priorities Regulation 3 with the exception of those listed in Schedule B of this order.

(5) Priorities assistance may not be obtained under this order for material or equipment to be used by consumer ac-

counts for or in the storage or dispensing of petroleum, including liquefied petroleum gas. Maintenance and repair for this type of equipment is covered under Preference Rating Order P–98–e.

(6) Priorities assistance may not be obtained under this order for tank trucks and trailers, railroad rolling stock, marine equipment or parts for any of these, unless the priorities assistance is used to secure the following:

(i) Material to be actually attached to a tank truck or trailer and necessary for containing, dispensing, measuring the movement of, or distributing petroleum;

(ii) Parts for railroad rolling stock, which rolling stock is owned or leased by the operator, is used on his premises and in the petroleum industry, and is not under the jurisdiction of the Interstate Commerce Commission;

(iii) Parts for marine equipment, which marine equipment is used or chartered by the operator, is used on or in the vicinity of his premises and in the petroleum industry, and for which no other method of securing priorities assistance exists.

Special methods for securing priorities assistance for the above equipment or equipment parts which may not be obtained under this order have been established by the Office of Defense Transportation, the Maritime Commision, and the War Production Board.

(7) Priorities assistance may not be obtained under this order for "residential construction" or "multiple residential construction", as defined in Order L–41 where the construction is in connection with natural gasoline recovery, transportation, refining or marketing. Priorities assistance may, on the other hand, be obtained under this order for material to be used as "lease equipment", as that term is defined in Petroleum Administrative Order No. 11.

MRO Material—Maintenance and Repair, Operating Supplies, and Laboratory Equipment

(d) *Allotment symbol and preference ratings.* To secure material for maintenance and repair, operating supplies or laboratory equipment (all known as MRO material) for use in any branch of the petroleum industry other than retail marketing an operator may use allotment symbol MRO–P–3 and preference rating AA–1. To secure MRO material for use in retail marketing an operator may use allotment symbol MRO–P–3 and preference rating AA–5.

(e) *How to use allotment symbol and preference rating.* To use the MRO allotment symbol and ratings, an operator must:

(1) Place the allotment symbol on delivery orders for controlled materials and the allotment symbol and preference rating on delivery orders for other MRO materials, certifying each delivery order in accordance with paragraph (r).

(2) Endorse on each delivery order of more than $100 (or accompany it by) a statement telling the specific use to which the material is to be put, the branch of the petroleum industry and the PAW District in which it is to be used, the approximate price, quantity and description of the material (including weight if it is a controlled material) and the month in which delivery of the material is required.

(3) Prior to placing each delivery order with a supplier, submit copies of the order to the District Office of the Petroleum Administration for War for the District in which the material will be used (or, if so desired by an operator in any branch of the industry other than production, for the District in which the purchasing office of the operator is located), Ref: Materials Division, as follows:

(i) If the delivery order is for $100 or less, no copy need be submitted.

(ii) If the delivery order is for controlled materials (other than aluminum) and has a total cost of more than $100 but not more than $2,500 and has no item of more than $500, one copy must be submitted for information purposes.

(iii) If the delivery order is for controlled materials (other than aluminum) and has a total cost of more than $2,500, or has any item of more than $500, the original and two copies must be submitted for approval, and an operator may not place such an order with a supplier until approval of the order has been returned to him.

(iv) If the delivery order is for other than controlled materials or for aluminum, and has a total cost of more than $100, one copy must be submitted for information purposes.

In the case of delivery orders for the special materials listed on Schedule B, the filing instructions set out in that schedule apply.

(4) An operator requiring aluminum as a controlled material need only comply with the previous subparagraphs of this paragraph (e) to obtain 500 pounds or less from all sources during a calendar quarter. If the quantity required is more than 500 pounds, he must apply by letter for permission to purchase the excess amount (furnishing the applicable information called for by paragraph (d) of Supplementary Order M–1–i) to the Aluminum and Magnesium Division, War Production Board, Ref: M–1–i. If approved the operator must then place his delivery orders in accordance with the previous subparagraphs of this paragraph (e).

(5) To use a preference rating obtained for MRO material pursuant to a Form WPB–541 (PD–1A) application, an operator must place on the delivery order the rating and allotment symbol P–3.

(f) *Emergency MRO materials.* Where there has been an actual breakdown or suspension of operations, and where the methods specified above will not get the material on the date and in the quantity required, an operator may request authority to secure emergency MRO material by letter, telegram or telephone to the District Office (in the case of production), or to the Washington Office (in all other cases), Ref: P–98–b, supplying the following information:

(1) Date of actual breakdown or suspension of operations and exact explanation as to what extent operations are affected.

(2) Description of equipment to be repaired and its function in maintaining continuous operation.

(3) Quantity, approximate price and detailed description of necessary material (including weight if a controlled material) and number and date of delivery order(s) thereof.

If information is supplied by telephone, it must be confirmed within three days by letter or telegram. No delivery order for emergency MRO material need be submitted to the Petroleum Administration for War but an operator shall not place a delivery order with a supplier for the emergency MRO material until approval has been received and the delivery order has been certified in accordance with paragraph (r).

Material for Use in Production

(g) *Scope of paragraphs (g), (h), (i), (j).* The following paragraphs under this general heading of "Material for Use in Production" set forth the methods to be used by a production operator in securing and using priorities assistance to get the material he will need for most of his operations. However, these paragraphs do not cover methods for obtaining priorities assistance for MRO material or material for use in the following special production operations:

Gas cycling operations for condensate recovery (including gathering and injection lines in connection therewith),
Gas desulphurization operations,
Gas dehydration operations,
Pressure maintenance operations, or
A gas lift compression plant or a field gas booster plant where the material to be installed or added increases the rated capacity of the plant more than 500 h. p.

Methods for securing MRO material have been set forth in paragraphs (d), (e) and (f) above, while methods for securing material for special production operations are set forth in paragraphs (k), (l) and (m) which follow.

References made in paragraphs (h), (i) and (j) immediately below, to production allotment symbols and ratings or to materials for use in production, apply only to the acquisition and use of material for the production operations covered by these paragraphs. Such references do not apply to MRO material or to material for use in the special production operations listed above.

(h) *Allotment symbol and preference rating.* To secure material for use in production, an operator may use allotment symbol P–1 and preference rating AA–2X.

(i) *How to use allotment symbol and preference rating.* To use his allotment symbol and preference rating, a production operator must:

(1) Indicate on each delivery order for controlled materials the allotment symbol; and indicate on each delivery order

for other materials the preference rating and allotment symbol; certifying each delivery order in accordance with paragraph (r).

(2) Endorse on each delivery order of more than $100 (or accompany it by) a statement telling the specific use to which the material is to be put, the branch of the petroleum industry and the PAW District in which it is to be used, and the approximate price, quantity and description of the material (including weight, if it is a controlled material), and the month in which delivery of the material is required.

(3) Prior to placing each delivery order with a supplier, submit copies of the order to the District Office of the Petroleum Administration for War for the District in which the material is to be used, Ref: Materials Division, as follows:

(i) If the delivery order is for $100 or less, no copy need be submitted.

(ii) If the delivery order is for controlled materials, and has a total cost of more than $100 but not more than $2,500, and has no item of more than $500, one copy must be submitted for information purposes.

(iii) If the delivery order is for controlled materials, and has a total cost of more than $2,500, or has any item of more than $500, the original and two copies must be submitted for approval, and an operator may not place such an order with a supplier until approval of the order has been returned to him.

(iv) If the delivery order is for other than controlled materials, and has a total cost of more than $100, one copy must be submitted for information purposes.

In the case of delivery orders for the special materials listed on Schedule B, the filing instructions set out in that schedule apply.

(j) *How to obtain authority to use materials.* Use of material in production is controlled by Petroleum Administrative Order No. 11, as amended and supplemented from time to time. Unless authority is granted by PAO–11 or an amendment or supplement to that order, to use material in the particular production operation, the operator must obtain an exception under PAO–11.

Material for Use in Special Production Operations, Natural Gasoline Recovery, Transportation, Refining and Marketing

(k) *Scope of paragraphs (k), (l), (m), (n).* The following paragraphs under this general heading of "Material for Use in Special Production Operations, Natural Gasoline Recovery, Transportation, Refining and Marketing" set forth the methods to be used by an operator engaged in any one of those industry branches or operations in securing and using priorities assistance to get the material he will need for his operations. The special production operations for which priorities assistance is made available by this major section are:

Gas cycling operations for condensate recovery (including gathering and injection lines in connection therewith),
Gas desulphurization operations,
Gas dehydration operations,
Pressure maintenance operations, or
A gas lift compression plant or a field gas booster plant where the material to be installed or added increases the rated capacity of the plant more than 500 h. p.

Methods for securing MRO material have been set forth in paragraphs (d), (e) and (f) above. References made in paragraphs (l), (m) and (n) immediately below to allotment numbers and ratings and to the use of material, apply only to the acquisition and use of material for the operations covered by these paragraphs. Such references do not apply to MRO material.

(l) *Allotment number and preference rating.* To secure equipment or material requiring an allotment number or preference rating for use in any special production operations, natural gasoline recovery, transportation, refining or marketing, an operator must file PAW Form 30 in accordance with the instructions set out on that form.

Form WPB–541 (PD–1A) may be used instead of PAW Form 30 to request a preference rating for machinery or equipment, if the machinery or equipment will be installed with the use of no more than $500 worth of material obtained through the MRO procedure of this order and if the machinery or equipment will be installed as part of a complete operation having a total material cost of no more than $5,000.

Form WPB–541 (PD–1A) may also be used instead of PAW Form 30 to request a preference rating for any material, regardless of cost, which will not be incorporated into a plant or other facility (for example, an item of construction machinery or equipment), unless a War Production Board order requires the use of some other form.

Form WPB–541 applications will be filed with the nearest War Production Board Field Office.

(m) *How to use allotment number or symbol and preference rating.* To use the allotment number and preference rating granted through a PAW Form 30 application an operator must place the allotment number on delivery orders for controlled materials and the allotment number and preference rating on delivery orders for other materials. On each delivery order for material rated after a Form WPB–541 application an operator must place the rating and either allotment symbol F–5 (in refining) or P–1 (in any other branch of the industry). Each delivery order must bear the standard certification of paragraph (r).

An operator may place authorized controlled materials orders only for the controlled materials specified for use in the operations designated on the PAW Form 30 application and may apply or extend the preference rating only to secure material requiring a rating and approved in connection with the PAW Form 30 or Form WPB–541 application.

Any rating or allotment number assigned pursuant to an application on either of such forms may be used without submitting delivery orders to the Petroleum Administration for War, unless the operator receives special instructions to the contrary.

(n) *How to obtain authority to use material.* (1) Use of material in transportation or refining, is governed by Petroleum Administrative Order No. 15 as amended and supplemented from time to time. Use of material in special production operations described above and in natural gasoline recovery is governed by Petroleum Administrative Order No. 11 as amended and supplemented from time to time. Since PAW Form 30 when filed as an application to secure material for use in connection with special production operations, natural gasoline recovery, transportation or refining, is also considered an application to use materials in connection with such operations, the authorization obtained by an operator by this form shall be considered authority to use the materials specified on the form in accordance with the provisions of such orders.

(2) Use of material (other than liquefied petroleum gas equipment) in marketing is governed by Petroleum Administrative Order No. 12 as amended and supplemented from time to time. If use of the material (other than liquefied petroleum gas equipment) is not authorized by PAO–12 or an amendment or supplement to that order, the operator must secure an exception under that order.

(3) Installation of liquefied petroleum gas equipment is governed by Order L–86 as amended and supplemented from time to time. If the material to be used in marketing is liquefied petroleum gas equipment and installation of such is not permitted by Order L–86 or an amendment or supplement to that order, the operator must secure an exception under that order.

(4) Exceptions under PAO–12 or L–86 do not afford priorities assistance to secure material. Such priorities assistance should be applied for under paragraph (1). MRO material will, of course, be obtained through the MRO procedures of this order, or, where applicable, through Preference Rating Order P–98–e.

General Provisions

(o) *Allotments by operators.* An operator who has obtained an allotment of controlled materials may require the manufacture and installation of certain Class A products or may undertake the operation through a construction contractor. In either case it may be necessary for the operator to allot a portion of his allotment to the Class A product manufacturer or to the contractor (each of whom then becomes a "secondary consumer" under CMP Regulations) for reallotment or the placement of authorized controlled material orders. Any operator making such an allotment must follow the procedures in CMP Regulation No. 1, except as modified by this order.

(p) *Placement of delivery orders.* (1) In preparing or placing a delivery order

an operator shall not alter the customary designation of any item or items for the purpose of making it appear that an item costs $500 or less or that the total cost of all items on the delivery order is $100 or less or $2,500 or less as the case may be.

(2) Any delivery order for controlled materials placed pursuant to this order and bearing the certification provided for in this order is an authorized controlled material order if the delivery order is in sufficient detail to permit entry on mill schedules and is received by the controlled materials producer at such time in advance as is specified in Schedule III of CMP Regulation No. 1, or at such later time as the controlled materials producer may find it practicable to accept the same. Attention is called to paragraph (t) of CMP Regulation No. 1 relating to rejection of orders by a controlled materials producer, including instances where less than minimum mill quantities, as specified in Schedule IV of the regulation, are requested by an operator.

(3) Where an allotment of controlled materials has been made and an allotment number authorized in connection with it, the allotment number endorsed upon any delivery order bearing the certification provided for in this order shall be an abbreviated allotment number consisting of a major program identification and the quarterly identification. In the event that no allotment number has been authorized, the appropriate allotment symbol stated in this order should be used. The allotment symbol MRO–P–3, authorized in connection with MRO material and allotment symbol P–1, in connection with production, shall constitute allotment symbols, for the purpose of all CMP regulations. In using these symbols no reference to a program or quarterly identification need be made.

(q) *Use, cancellation and reduction of allotment.* (1) [Revoked Mar. 18, 1944]

(2) An operator who receives an allotment of controlled materials pursuant to application on PAW Form 30 must use it only for the purpose for which it was authorized. If such an allotment is not used in placing authorized controlled material orders or in making reallotments, the operator must promptly notify the Washington Office of such facts.

(3) An operator who has made an allotment may cancel or reduce the same by notice in writing to the person to whom it was made. Where an allotment received by an operator is cancelled, he must cancel all allotments which he has placed on the basis of the allotment. Where an allotment received by an operator is reduced, he must cancel or reduce allotments which he has made, or authorized controlled material orders which he has placed, to the extent that the same exceeds his allotment as reduced. In the event this course of action is impracticable, the operator shall immediately request instructions of the District Office (in the case of production) or of the Washington Office (in all other cases).

(r) *Certification.* An operator may use an allotment number or symbol or preference rating authorized pursuant to this order by endorsing upon his delivery order a certification in substantially the following form:

> The undersigned purchaser certifies, subject to the penalties of section 35A of the United States Criminal Code, to the seller and to the War Production Board, that, to the best of his knowledge and belief, the undersigned is authorized under applicable War Production Board regulations or orders to place this delivery order, to receive the item(s) ordered for the purpose for which ordered, and to use any preference rating or allotment number or symbol which the undersigned has placed on this order.

This certification may be used as provided in Priorities Regulation No. 7. It may also be used instead of any other certification required by any regulation or order of the War Production Board, to the extent permitted by Priorities Regulation No. 7. The certification must be signed manually or by the use of a facsimile signature as provided in that regulation.

(s) *Restoration of inventories.* An operator may use an allotment number or symbol or preference rating authorized under this order to restore his inventory to a practicable working minimum. However, an operator may not secure replacements which would result in surplus material as defined in Preference Rating Order P–98–c as amended.

(t) *Restrictions.* An operator may not use the allotment number or symbol or the preference ratings authorized under this order to obtain material:

(1) For any purpose other than a purpose authorized under this order or in greater amounts or on earlier dates than required for any authorized purpose.

(2) Which can be secured without the use of an allotment number or symbol or preference rating.

(3) The use of which could be eliminated without serious loss of efficiency by substitution of less scarce material, or by change of design.

(4) In such amounts or on such dates that receipt of such amounts on the requested dates would result in surplus material as defined in Preference Rating Order P–98–c, as amended.

(5) Unless such operator is a participant in the PAW Materials Redistribution Program No. 2, if participation by the operator in this program is required.

(u) *Applicability of other orders and regulations.* (1) This order and all transactions affected hereby, except as herein otherwise provided, are subject to all orders and regulations of the War Production Board, as amended from time to time.

(2) None of the provisions of CMP Regulation Nos. 2, 5, or 6 (or the limitations incorporated in any CMP Regulation which otherwise would subject an operator to the provisions of CMP Regulation Nos. 2, 5, or 6) shall apply to an operator and no operator shall obtain any material under or be limited by the provisions of such regulations or limitations. The provisions of paragraphs (i), (s), (s–1) and (u) of CMP Regulation No. 1 shall not apply to an operator who secures material in accordance with the provisions of this order. Other than as set forth in paragraph (c) (7) hereof, the provisions of Limitation Order L–41, as amended from time to time, shall not apply to an operator as such operator is limited by the provisions of that order.

(3) Any preference rating, other than a rating for MRO material, assigned pursuant to the provisions of this order is assigned in lieu of a preference rating under an order in the P–19 series. Any reference in any order of the War Production Board to an order in the P–19 series shall constitute a reference to a preference rating assigned pursuant to this order.

(4) Privileges granted by other orders and regulations of the War Production Board to persons on Schedule I of CMP Regulation 5 shall be considered as applicable to petroleum operators, other than operators to the extent that they are engaged in retail marketing, operating under this order. For example, Order E–5–a on gauges and precision measuring hand tools classifies a person on Schedule I or II of CMP Regulation 5 as an "approved user". With the stated exception, an operator covered by P–98–b is in identically the same position, *Provided,* That certification clauses in and all other provisions of such other orders are complied with.

(5) Where a preference rating or allotment symbol, or both, is permitted or is required to be used by any other "E", "L", "M", "P", or "U" order or any regulation of the War Production Board to obtain a specific item of material, it will not also be necessary to follow any procedure of this order to obtain that item of material.

(v) *Further limitations on use of priorities assistance.* The Petroleum Administration for War may issue in its own name further restrictions or limitations on the use of priorities assistance by operators in the petroleum industry.

(w) *Communications.* All reports required to be filed hereunder and all communications concerning this order should, unless other directions are given, be addressed to the Petroleum Administration for War, Interior Building, Washington 25, D. C., Ref: P–98–b.

The addresses of the Petroleum Administration for War District Offices are set forth in Schedule D.

(x) *Violations.* Any person who willfully violates any provision of this order or who willfully furnishes false information to the Petroleum Administration for War or the War Production Board in connection with this order is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of or from processing or using material under priority control and may be deprived of priorities assistance by the War Production Board.

The reporting requirements of this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE A

The items listed on this schedule may be delivered to operators without regard to preference ratings. No operator shall apply or extend any rating to get any of these items and no person selling any such item shall require a rating as a condition of sale.

Items on List A of Priorities Regulation 3:
Rock bits and core bits (rotary bits).
Tool joints.

SCHEDULE B

The procedure established by this schedule must be followed in order to request a rating for any item listed on it. Certain of these items are on List B of Priorities Regulation 3, and any rating secured under this procedure for such an item is not a blanket MRO rating and may be used to secure such item.

In order to request a rating under this procedure two copies of each delivery order (regardless of amount) must be submitted to the District Office of the PAW of the District in which the material will be used (or, if so desired by an operator in any branch of the industry other than production, for the District in which the operator's purchasing office is located). For each such delivery order, in addition to the statement which must regularly accompany an MRO delivery order submitted to PAW concerning the specific use to which the material will be put, the operator should include a detailed explanation of why he requires the particular item requested. An operator may not place a delivery order with a supplier covering these items until approval of such order has been returned to him. For convenience this will be referred to as the "special MRO procedure."

The following materials are covered by this schedule:

(a) Those items currently identified on (and more completely described in) List B of Priorities Regulation 3 as follows, and any equivalent items replacing them on revisions of that List B, when required as MRO material:

DESCRIPTION

Civilian defense devices.
Filing cabinets, wooden.
Fire protective equipment.
Furniture for use in offices, factories, industrial establishments and institutions, except furniture specifically designed for schools.
Medical, surgical and dental equipment and supplies (except parts for the maintenance or repair of existing equipment.)
Medical, surgical and dental instruments.
Slide rules, precision engineering, having a list price of $7.50 or more.
Venetian blinds.

(b) Construction machinery and equipment (on Schedule B of Order L–192) costing in excess of $500, when required as MRO material or as material for use in production.

SCHEDULE C

The special MRO procedure of Schedule B may be used to request a rating for only those items on List B of Priorities Regulation 3 as MRO material which are listed on that schedule. Many of the other items on List B of Priorities Regulation 3 may be secured without a preference rating and every attempt should be made to do so. If a rating is required for any of these remaining items or for any other item which cannot be secured with a blanket MRO rating, it should be applied for on Form WPB–541 (PD–1A), filed with the nearest WPB Field Office.

There are two general exceptions to this rule. In the first place, laboratory instruments and equipment may be obtained under the regular MRO procedure of this order. And secondly, the forms indicated below will be used for the items there listed.

Item	Preference rating form	Release or scheduling form	Filing instructions
(a) Cellophane	WPB-541		File with nearest WPB Field Office.
(b) Gas cylinders (as defined in M-293).	WPB-541		File with nearest WPB Field Office.
(c) Liquefied petroleum gas storage tanks.	WPB-541		File with nearest WPB Field Office.
(d) Steel shipping drums (as defined in L-107).	WPB-3223	WPB-3223	File with PAW, Washington, Ref: P-93-b.
(e) Wooden shipping containers (as defined in L-222, P-140).	WPB-2103		File WPB-2103 with PAW, Washington, Ref: P-93-b. File this form only if the preference ratings of P-140 are not sufficiently high to obtain delivery at the time the material is needed.
(f) Machine tools (as defined in E-1-b).	WPB-541		File with nearest WPB Field Office.

SCHEDULE D—INSTRUCTIONS FOR DIRECTING COMMUNICATIONS TO DISTRICT OFFICES

District 1: (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, District of Columbia). Direct communications to Petroleum Administration for War, 1104 Chanin Building, 122 East 42nd Street, New York 17, New York. Ref: P-93-b.

District 2: (Ohio, Kentucky, Tennessee, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota). Direct communications to Petroleum Administration for War, 1200 Blum Building, 624 South Michigan Avenue, Chicago 5, Illinois (or) 410 Beacon Building, 406 South Boulder Avenue, Tulsa 3, Oklahoma. Ref: P-93-b.

District 3: (Alabama, Mississippi, Louisiana, Arkansas, Texas, New Mexico). Direct communications to Petroleum Administration for War, 245 Mellie Esperson Building, Houston 1, Texas. Ref: P-93-b.

District 4: (Montana, Wyoming, Colorado, Utah, Idaho). Direct communications to Petroleum Administration for War, 320 First National Bank Building, Denver 2, Colorado. Ref: P-93-b.

District 5: (Arizona, California, Nevada, Oregon, Washington, Territory of Alaska). Direct communications to Petroleum Administration for War, 855 Subway Terminal Building, Los Angeles 13, California. Ref: P-93-b.

[F. R. Doc. 44-3839; Filed, March 18, 1944; 11:21 a. m.]

PART 3114—SIMPLIFICATION AND STANDARDIZATION OF PORTABLE TOOLS, CHUCKING EQUIPMENT, MECHANIC'S HAND SERVICE TOOLS, FILES, HACK AND BAND-SAWS, VISES, AND MACHINE TOOL ACCESSORIES

[Limitation Order L–216, Schedule VI as Amended Mar. 18, 1944]

VISES

§ 3114.7 *Schedule VI of Limitation Order L–216*—(a) *Definitions.* For the purpose of this schedule and the table attached hereto:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons whether incorporated or not.

(2) Names of various types of vises shall have the same meaning as in Federal Specifications GGG–V–436–a, and the illustrations in such specifications shall be deemed the graphic descriptions of the vises referred to; provided, however, that none of the other provisions of such specifications shall be controlling.

(3) "Jaw cap" means the cap designed to be placed across the face of the jaw of a vise to cover the surface of the jaws.

(b) *Manufacture of jaw caps.* No person shall perform any manufacturing operation upon or sell any jaw caps made of any metal other than lead or lead base alloy.

(c) *Limitation on manufacture of vises.* (1) No person shall use in the manufacture of vises any metals other than carbon or alloy steel or cast or malleable iron.

(2) No person shall manufacture any vise of any of the types listed in Table 1, except in the jaw sizes there specified.

(d) *Exceptions.* Nothing contained in paragraphs (b) and (c) of this schedule shall be deemed to prohibit the sale of jaw caps or vises which on January 4, 1944, were completely fabricated, nor to prohibit the manufacture and sale of jaw caps or vises which on January 4, 1944, had been so fabricated that completion in compliance with the provisions of this schedule would be impracticable. Each person who shall manufacture or sell any jaw cap or vise under the terms of this exception, shall keep and maintain, subject to inspection by the War Production Board, accurate records with respect to each such transaction.

(e) *Manufacture of repair parts.* Nothing contained in paragraph (c) of this schedule shall be deemed to prevent the manufacture of repair parts for vises, notwithstanding the fact that the vises for which such parts are made do not conform to the limitations set forth in this schedule. No person shall assemble repair parts so produced into a complete vise, but shall use them only for the purpose of replacing parts of vises which are broken or so badly worn that they are no longer serviceable.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

TABLE I—TYPES OF VISES WHICH MAY BE MANUFACTURED ONLY IN THE JAW SIZES SPECIFIED

Types of vise:	*Jaw size, inches*
Combination, bench and pipe, swivel base	4½ 6
Machinists' bench, stationary base and jaw	3 3½ 4 4½ 5 6 8
Machinists' bench, swivel base, stationary jaw	2 3 3½ 4 4½ 5 6 8
Machinists' bench, swivel base and jaw	3½ 4½ 6

[F. R. Doc. 44-3840; Filed, March 18, 1944; 11:21 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 2, Interpretation 2]

PROMPT CANCELLATION AND SPECIAL ITEMS

The following interpretation is issued with respect to CMP Regulation 2:

(a) CMP Regulation No. 2 requires a user of controlled material to promptly cancel, postpone, or reduce delivery when his requirements of controlled materials are reduced. Such cancellations must be made as rapidly after he discovers that his requirements are reduced as is practicable.

(b) Paragraph (c) (4) of the regulation permits the receipt of a special item of controlled material in greater amounts than presently needed under the following circumstances: (1) if the user has promptly instructed the producer to reduce or postpone the delivery of the item and (2) if the user has received from the producer a statement that the item is a special item on which production has been begun and that the producer must complete a minimum amount in order to prevent undue loss in production. This exception applies only to special items the user will need and does not permit acceptance of items which will not be needed at all.

(c) Before a producer may deliver such special items he must notify his customer in writing that the item is a special item stating the amount which is the minimum amount he must complete without undue loss of production. The customer is entitled to rely on this notice and need make no further inquiries. A special item, as the term is used in the regulation, means one that the producer does not usually make, stock or sell, and which he cannot readily dispose of in the course of his business. An item which is a special item to one producer may not be a special item to another producer.

(d) The producer, on receipt of a notice from his customer to reduce or postpone delivery, must be diligent in taking the special item out of his schedule or in stopping production if it has already been started.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F .R. Doc. 44-3888; Filed, March 20, 1944; 11:02 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 3, Direction 5, as Amended Mar. 20, 1944]

The following direction is issued pursuant to CMP Regulation 3:

(a) Since "automotive replacement parts" (as defined under Code 105 CMP Products List appearing in "Products and Priorities") are classified as B products, they are subject to the general rule that no person may make an allotment to a producer for their production, as explained in paragraph (g) (3) of CMP Regulation No. 1. However, as an exception to this rule, they may be treated as A products if each of the following conditions is satisfied: (1) The manufacturer of the part specifically asks his customer to treat it as an A product instead of a B product; (2) the product is of a type which is not used exclusively or primarily as an automotive part; and (3) the product is not separately listed as a B product in the official CMP Product List, but is only included under the general heading of "automotive replacement parts". For example, a nut may not be treated as Class A, because "nuts" are separately listed in the CMP Products List. A spark plug may not be treated as Class A, because it is used principally in the automotive industry. On the other hand, a spring may be treated as Class A, since springs are used for many other purposes, even if the particular spring is designed for use only in automotive vehicles.

(b) Paragraph (b) (1) of CMP Regulation 3 permits preference ratings for production materials to be used within certain limits to get items which are purchased to round out a line. This does not apply to any automotive replacement parts except those which are treated as A products as permitted by paragraph (a) above.

(c) The same product may be a Class A product or an automotive replacement part depending on whether it is sold for use in production or as a repair part. This direction has no application to automotive parts which are sold for use in making new vehicles or new subassemblies of vehicles.

(d) Interpretation 7 of CMP Regulation No. 1, regarding Class A repair parts, does not apply to automotive replacement parts.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3889; Filed, March 20, 1944; 11:02 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 5, Interpretation 11]

PURCHASER'S COST OF LABOR FOR MINOR CAPITAL ADDITIONS

The following interpretation is issued with respect to CMP Regulation 5:

Paragraph (b) (3) permits the use of the MRO symbol and rating to get minor capital additions which cost not more than $500 "excluding the purchaser's cost of labor". The labor costs which may be disregarded in this connection are the services of the purchaser's own regular employees, additional employees hired for installing new equipment or doing construction, and fees paid to independent contractors who install equipment or do construction where, under normal business practices, the fee is paid primarily for services as distinct from materials. For example, if a purchaser of a piece of machinery costing $500 pays the seller an additional installation fee of $50 which is normally a separate charge, if he hires an independent contractor to install the machinery for $50, the $50 payment may be disregarded even though the seller or independent contractor furnishes a few minor material additions such as wiring or pipe connections, bracing, etc. On the other hand, if the purchaser hires a building contractor to construct an addition to his plant, under circumstances where the contractor would normally charge a single fee including building materials, labor and the contractor's profit, the total fee must be included in the cost and the contractor's labor may not be deducted, since the contractor is paid primarily for the completed addition rather than for the labor of installing property separately purchased. Likewise, if the seller normally makes a single charge including installation, this cost of installation must be included.

Direction 15 explains the rules for buying $500 worth of materials needed for installation or relocation of equipment which is not bought by use of the MRO rating or symbol. In that case, the same principles apply in determining what labor costs are to be included.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3890; Filed, March 20, 1944; 11:03 a. m.]

PART 3270—CONTAINERS

[Limitation Order L-103, Schedule C, as Amended Mar. 20, 1944]

GLASS CONTAINER AND CLOSURE SIMPLIFICATION; GLASS CONTAINERS FOR CERTAIN FOOD PRODUCTS

§ 3270.49 *Schedule C to Limitation Order L-103*—(a) *Definition.* For the purposes of this schedule:

"Standard glass container" means any container constructed in accordance with the specifications and design prescribed by any exhibit set forth in Drawings 1 to 15, inclusive, annexed to Order L-103, which possesses the finish prescribed for such exhibit or, subject to the provisions of paragraph (b) (2) hereof, any other finish which is interchanged therewith in accordance with paragraph (g) of Limitation Order L-103.

(Note that in accordance with the footnotes to Drawings 7, 8, 9 and 13 glass containers conforming to the specifications of the following exhibits constitute "standard glass containers" for the purposes of this schedule only if they are manufactured before December 20, 1943—16-80, 16-81, 17-09, 17-11, 17-22, 17-76, 18-08, 18-14, 51-87, 51-89, 51-93, 51-95, 51-97, 51-99.)

(b) *Restrictions on use.* (1) With the exceptions set forth in paragraph (c) of this schedule, on and after July 4, 1943, no person shall use a glass container for the packing for sale of any product listed in the annexed table, except a standard glass container, having a capacity equal to or greater than that specified for such product in column II of said table.

(2) Notwithstanding the provisions of paragraph (g) of Order L-103, no person

shall use for the packing for sale of any product listed in the table annexed to this schedule any glass container with a "deep screw cap" finish, except as specifically permitted by an exhibit authorized for such product.

(c) *Exceptions.* (1) Nothing in this schedule shall prevent the use, for the packing of any product listed in the annexed table, of any glass containers which were completely manufactured before the 4th day of July 1943.

(2) Nothing in this schedule shall restrict the sale, delivery, use or manufacture of glass containers with a capacity larger than 140 fluid ounces, of designs that existed on May 11, 1942.

(3) Nothing in this schedule shall prohibit any person who packed less than a total of 5,000 containers with all of the products listed in the annexed table during the calendar year 1942 from purchasing, accepting delivery of, or using without restriction, during any subsequent calendar year, a maximum of 5,000 glass containers for packing such products.

(4) Except as specifically permitted by the drawings and exhibits annexed to Order L–103 molded lettering or decoration on standard glass containers for the respective products listed in said table shall be limited to the manufacturers' identification (which may include trademark, name, symbol), place of manufacture, date of manufacture by year, design number, and mold or cavity number.

(d) *Manufacture.* (1) No person shall manufacture, sell, or deliver any glass container which he knows, or has reason to believe, will be used in violation of any provision of this schedule.

(2) On and after the 5th day of April 1943, no molds may be manufactured for a container for any of the products listed in the annexed table which does not conform to the specifications of a standard glass container usable for such product, nor may any mold for a container for a product listed in the annexed table be replaced—whether because of wear or for any other reason—except by a mold which conforms to said specifications.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

TABLE

I. Product	*II. Minimum overflow capacity in fluid ounces*
1. Fruit butter	12
2. Preserves	12
3. Jelly	[1]9
4. Salad dressings (including products using salad dressing as a base)	[1]8
5. Olive oil	[2]
6. Edible oils (other than olive oil)	16
7. Shortenings	20
8. Maple syrup	12
9. Syrups (except chocolate and maple), including blended, bottlers, cane, corn, molasses, sorghum, malt, and fountain syrups	16
10. Chocolate syrup	[1]8
11. Tomato catsup	[2]12
12. Chili sauce and cocktail sauce	10
13. Tomato paste Not less than 25% by weight dry tomato solids	[1]6
14. Tomato pulp and puree Not less than 10.7% (specific gravity 1.045) or more than 25% by weight dry tomato solids	12
15. Vinegar	16
16. Fruits and vegetables and mixtures thereof, including ripe olives, but excluding cranberries and maraschino cherries	16
17. Honey	[1]6
18. Pickles and relishes	[1]8
19. Peanut butter	[1]8
20. Fruit and vegetable juices and mixtures thereof	12
21. Olives, green	[3]5
22. Maraschino cherries	[3]7
23. Cranberries and cranberry sauce	[1]8
24. Mustard, including, but not limited to, prepared mustard, horseradish mustard, compound mustard, and imitation mustard	[4]6

[1] Any tumbler may be used (in addition to standard) for packing the applicable product provided:

(i) Such tumbler was made from a mold that was actually in existence on or before April 5, 1943;

(ii) Such tumbler has no larger than a 70 mm. finish;

(iii) The capacity of such tumbler is no less than 8 fl. oz. and no greater than 9¾ fl. oz.

[2] Until completion of the 1943 packing season for tomato catsup, any bottle of a design previously used for tomato catsup may be used therefor, in addition to the specified standards, provided:

(i) Said bottle was made from a mold actually in existence on April 5, 1943;

(ii) Such bottle is made to hold 14 oz. by weight of tomato catsup;

(iii) The height of such bottle to the "fill point" does not exceed 7⅞ inches.

After completion of 1943 tomato catsup packing season, only the containers permitted for said product pursuant to paragraph (b) (1) of this schedule may be used.

[3] Standard glass containers having a capacity equal to or greater than 3 oz. (and less than 5 oz.) may be used for olives, and standard glass containers having a capacity equal to or greater than 4 oz. (and less than 7 oz.) my be used for maraschino cherries, provided these containers were completely manufactured on or before December 20, 1943.

[4] Nothing in this schedule shall prevent the use for the packing of mustard of any glass container which was completely manufactured before June 20, 1944.

[F. R. Doc. 44-3896; Filed, March 20, 1944; 11:02 a. m.]

PART 3281—PULP AND PAPER

[General Conservation Order M-294, as Amended Mar. 20, 1944]

WASTE MANILA ROPE AND MANILA FIBRE OF THE T–2, T–3, O, Y AND EQUIVALENT GRADES

§ 3281.71 *General Conservation Order M–294*—(a) *Definitions.* For the purpose of this order:

(1) "Waste manila rope" means used manila rope, which is acquired for any purpose whatsoever excepting only that which is acquired for reuse as rope. The material resulting from any shredding, parting or other type of separation of the strands or fibres of used manila rope shall be deemed to be "waste manila rope".

(2) "Manila fibre" means fibre grades of T–2, T–3, O, Y or equivalent as established by the Insular Government of the Philippine Islands.

(3) "Permitted use" means with respect to each grade or type of paper designated on List A, the uses described for such paper on List A.

(4) "No. 1 large waste manila rope" means solid, clean, dry, sound manila rope not less than ¾" in diameter, free from any inferior or objectionable materials, such as tarred and transmission ropes; dirty, black, painted, greasy, oily, oil smeared, and latex treated rope or coal dust; rope wholly or partly composed of fibers other than manila and such materials as tender fiber, knots, nets, yarns, strands, shakings, cord, string, or other unsound fibers.

(5) "No. 1 small waste manila rope" means the same rope as defined in paragraph (a) (3), except that the rope may be less than ¾" in diameter.

(6) "Uncut manila fenders" means uncut manila fenders obtained from boats and docks, packed separately and free of mats, iron, grease, rubber, tender and other foreign materials.

(b) *Limitations on sale or use of waste manila rope and manila fibre.* (1) No person shall use waste manila rope or manila fibre as a raw material in the manufacture of any product or products other than in the manufacture of rope or in the manufacture of paper.

(2) No person shall use waste manila rope in the manufacture of any grade or type of paper other than the grades and types of paper shown on List A.

(3) No person shall sell waste manila rope or manila fibre if he knows or has reason to believe such raw material will be used in the manufacture of any product or products other than in the manufacture of rope or in the manufacture of paper.

(4) No person shall sell waste manila rope if he knows or has reason to believe such materials will be used in the manufacture of any grade or type of paper other than the grades or types of paper shown on List A.

(5) No person shall use manila fibre in the manufacture of any grade or type of paper other than the grades and types of paper shown on List B.

(6) No person shall sell manila fibre if he knows or has reason to believe such material will be used in the manufacture of any grade or type of paper other than the grades or types of paper shown on List B.

(c) *Limitation on use of grades and types of paper shown on List A or List B.* No person who accepts delivery of any grade or type of paper shown on List A or List B in which waste manila rope or manila fibre is used as a raw material shall use the same for any purpose or use other than the permitted uses for such grade or type of paper shown on List A

or List B, except that this restriction shall not apply to any grade or type of paper containing waste manila rope, manufactured prior to March 19, 1943.

(d) *Limitations on use of waste manila rope in the manufacture of flour and cereal sack papers.* (1) No person shall use waste manila rope in the manufacture of paper for flour or cereal products sacks to an extent in excess of 45% of the total fibre content of such paper; *Provided, however,* That the amount of waste manila rope used by him in the manufacture of such paper during any one month shall not exceed 45% of the amount used by him in the manufacture of such paper during the month of December 1942.

(2) No person shall use No. 1 large waste manila rope (as defined in paragraph (a) (4)) or No. 1 small waste manila rope (as defined in paragraph (a) (5)) or uncut manila fenders (as defined in paragraph (a) (6) of this order), to an extent in excess of 35% of the total fibre content of such paper; *Provided, however,* That the amount of No. 1 large waste manila rope, No. 1 small waste manila rope or uncut manila fenders used by him in the manufacture of such paper during any one month shall not exceed 35% of the amount used by him in the manufacture of such paper during the month of December 1942.

(3) [Deleted Mar. 20, 1944]

(e) *Limitation on use of waste manila rope in the manufacture of abrasive paper.* (1) No person shall use waste manila rope in the manufacture of abrasive paper to an extent in excess of 25% of the total fibre content of such paper, and none of the waste manila rope so used shall be of the grades known as No. 1 large old manila rope or No. 1 small old manila rope or uncut manila fenders.

NOTE: Former subparagraph (1) deleted; former subparagraph (2) redesignated (1) Mar. 20, 1944.

(f) *Obligation to examine and refuse certain orders.* (1) No person using waste manila rope in the manufacture of the grades and types of paper shown on List A shall sell or deliver any such paper which he knows or has reason to know will be used for any other purpose or use other than a permitted use.

(2) No person using manila fibre in the manufacture of grades and types of paper shown on List B shall sell or deliver any such paper which he knows or has reason to know will be used for any other purpose other than a permitted use.

(g) *Exceptions.* Specific authorization may be granted by the War Production Board for use of waste manila rope in the manufacture of any product or products for delivery to the Armed Forces or for use in the manufacture of any material or equipment for delivery to the Armed Forces when such product or products, material or equipment cannot be satisfactorily produced from other available fibres. Applications for such authorization shall be made by filing a letter with the War Production Board, Pulp Allocation Office, Ref: M-294, stating fully the reasons for requesting such authorization.

(h) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(i) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provisions appealed from and stating fully the grounds for appeal.

(j) *Communication.* All reports required to be filed hereunder, or communications concerning this order or any schedule issued supplementary hereto shall, unless otherwise directed, be addressed to the War Production Board, Pulp Allocation Office, Washington 25, D. C., Ref. M-294.

(k) *Violations.* Any person who wilfully violates any provision of this order, or who in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

LIST A

Grade or type of paper:	*Permitted use*
Insulating papers	In the manufacture of insulation for communication wiring and cables, for electrical wiring and cables, and other types of electrical insulation.
Gasket base papers	In the manufacture of gaskets.
Artificial leather base papers.	In the manufacture of artificial leather for delivery to shoe manufacturers.
Flour and cereal products sack papers.	For use in the manufacture of sacks for packaging flour or other cereal products, in quantities of 25 pounds or more.
Tag papers	In the manufacture of casualty tags, shipping tags and identification tags for delivery to the Armed Forces.
Abrasive paper	In the manufacture of industrial abrasive papers and belts.

LIST A—Continued

Grade or type of paper—Continued.	*Permitted use*
Stencil base paper	In the manufacture of stencil base papers for mimeograph stencils.

LIST B

NOTE: List B added Mar. 20, 1944.

Grade or type of paper:	*Permitted use*
Electrolytic condenser paper (but not less than 24 x 36—18#).	In the manufacture of electrical condensers or capacitors where electrolytic paper is required.
Stencil base paper	In the manufacture of stencil base papers for mimeograph stencils.

[F. R. Doc. 44-3891; Filed, March 20, 1944; 11:02 a. m.]

PART 3285—LUMBER AND LUMBER PRODUCTS[1]

[Limitation Order L-290, as Amended Mar. 20, 1944]

DELIVERIES OF WESTERN LUMBER FROM SAWMILL STOCK

Section 3285.16[1] *Limitation Order L-290* is amended to read as follows:

§ 3285.16[1] *Limitation Order L-290*—(a) *What this order does.* This order regulates the transfer or delivery of certain kinds of western lumber from sawmill stock by lumber producers. It confines deliveries to those made for certain classes of essential uses and for uses which may be expressly authorized by the War Production Board.

(b) *Definitions.* For the purposes of this order:

(1) "Restricted western lumber" means any sawed lumber of any size or grade, including round edge, rough, dressed on one or more sides or edges, dressed and matched, shiplapped, worked to pattern, or grooved for splines of the following species produced in Washington, Oregon, California, Idaho, Montana, Wyoming, Nevada, Utah, Colorado, Arizona, New Mexico, or South Dakota: Ponderosa pine, Idaho white pine, sugar pine, lodgepole pine, white fir (except white fir produced west of the crest of the Cascade mountain range in the States of Oregon and Washington), Western white spruce, and Engelmann spruce. However, the term does not include:

(i) Shingles, lath, slabs, railroad cross ties or switch ties, mine ties;

(ii) Edgings, trims and off-fall less than three inches wide or less than four feet long unless produced for the purposes of evading this order; and

(iii) Used lumber.

(2) "Producer" means:

(i) Any sawmill which produces currently over 10,000 feet, board measure, of any one or more species of lumber (whether lumber restricted by this order or not) per average day of eight hours

[1] Formerly Part 3238, § 3238.11.

of continuous operation, or which produced an average of over 10,000 feet of such lumber per day during the days when it was in operation from June 3, 1943, to December 3, 1943. A sawmill producing a smaller amount of lumber per day may at its election also be classed as a "producer".

(ii) "Producer" does not include any establishment known in the trade as a distribution yard engaged either in the retail or wholesale business, even though such a yard may process more than 25 percent of the volume of lumber it receives for the servicing of special orders from customers.

(3) "Sawmill stock" means any restricted western lumber in the possession of a "producer". Restricted western lumber which the producer has delivered to others or transferred to his own use is no longer part of "sawmill stock" if the delivery or transfer is permitted by the WPB under this order or otherwise.

(4) "War agency" means the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, Veterans Administration, and any agency of the United States Government placing orders for material or equipment to be delivered to or for the account of any other country under the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(5) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(c) *General restrictions.* No person shall sell, ship, deliver, or dispose of, and no person shall accept delivery of, any restricted western lumber out of the "sawmill stock" of a "producer" unless authorized or permitted in one of the ways stated below. This restriction applies to any transfer from a person's "sawmill stock" to his own or affiliated distribution yard, retail sales department, cut-up plant, box factory, or other plant where fabricated products made from lumber, rather than lumber products, are produced.

(1) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any person for whom the Central Procuring Agency, Procurement Division, of the United States Corps of Engineers, has issued a notification on a purchase inquiry known as a "purchase allocation". The delivery may be made on the basis of such a "purchase allocation" or on the basis of a certificate as prescribed in paragraph (d) (1) indicating that the person certifying has received a purchase allocation.

(2) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any War Agency as defined in paragraph (b) (4), or to, or for the account of any contractor or sub-contractor for a War Agency, if the lumber is required to fill an outstanding contract or purchase order of a War Agency for direct delivery to the War Agency, or for construction of a building, wharf, or other structure for a War Agency, or for incorporation into any material already ordered by or for a War Agency, or for packing, boxing, crating, or storing of any material already ordered by or for a War Agency. However, the delivery may not be made unless there is endorsed on the purchase order or contract a certificate as explained in paragraph (d) (2).

(3) Western lumber actually in transit on March 27, 1944, which was unrestricted before March 27, 1944, may be delivered to its ultimate destination.

(4) Delivery of "sawmill stock" between "producers" may be made freely.

(5) Delivery may be made as authorized on Form WPB 2720. See paragraph (e) for instructions as to the use of this form.

(6) Delivery may be made as authorized or directed by the War Production Board in a specific directive or in a direction, as explained in paragraph (h).

(d) *Certificates that may be used to get restricted western lumber.* Unless a directive or direction issued by the War Production Board says that it must be done in some other way, one of the following forms of certificate must be endorsed on or attached to the purchase order whenever, under this order, a certificate is required. The certificate prescribed in Priorities Regulations 3 and 7 may not be used instead.

(1) *Certificates to be used by purchaser who has received a "purchase allocation."*

The purchaser of this lumber certifies to the seller and to the War Production Board that this lumber is required for Purchase Allocation Number ____ issued by the Central Procuring Agency, in compliance with paragraph (c) (1) of Limitation Order L-290, with which I am familiar and that the use of any rating shown on this purchase order is authorized.

_____
Purchaser

Date _____ By_____
Duly authorized official

(2) *Certificate for requirements of War agency.*

The purchaser of this lumber certifies to the seller and to the War Production Board that this lumber is required for prime contract (or purchase order) Number ____ entered into by_____
War Agency

for use by_____
War Agency, Contractor or Sub-contractor

in compliance with paragraph (c) (2) of Limitation Order L-290 with which I am familiar and that the use of any rating shown on this purchase order is authorized.

_____
Purchaser

Date _____ By_____
Duly authorized official

Certificates must be retained in the seller's files for inspection by government representatives, and are legally made to the War Production Board as well as to the seller. Any false statement is punishable by fine and imprisonment. No person, who gets lumber delivered from a producer on a certificate, may use the lumber for any purpose except the purpose indicated on the certificate. If for any reason a purchaser is unable to use lumber for the purposes stated in the certificate, he must apply on Form WPB 2720 for permission to use the lumber for other purposes. A seller may rely on the statements made to him in a certificate only if he does not know or have reason to believe that they are false. The above provisions apply also to any form of certificate which may be prescribed in a directive or direction under this order.

(e) *Use of Form WPB 2720 for permission to get delivery.* (1) Persons, including distributors, not entitled to use one of the certificates provided for in this order or in a direction issued pursuant to this order who wish to have permission from the War Production Board to get lumber either directly or indirectly from a "producer" may apply for such permission on Form WPB 2720. Before applying to the War Production Board the person should first place a purchase order with a "producer."

(2) As soon as the "producer" has indicated that he can or will deliver the lumber, the person wishing to get it should then file Form WPB 2720 with the War Production Board. The name and address of the "producer" should be indicated in the space provided for "producer" and all information called for on the form should be fully supplied. If the War Production Board approves the application, it will be noted on the form and copies will be returned to the applicant and the "producer."

(3) Whenever a person wishes to dispose of restricted western lumber out of his own "sawmill stock" at retail or transfer any such lumber to his own or affiliated distribution yard, retail sales department, cut-up plant, mill work plant, box factory or other plant where fabricated products rather than lumber are made, permission must first be obtained from the War Production Board by applying on Form WPB 2720. The form should be filled out as if the person were a receiver, and "Special Instructions for Producers" on the top of the reverse side of the form should be disregarded. Persons having "sawmill stocks" may apply on Form WPB 2720 quarterly or at more frequent intervals for permission to sell lumber at retail or transfer it to their distribution yards or other plants. After permission has been granted the person may dispose of or transfer only the quantities permitted on the approved form. Except in cases of emergency, producers should not apply on Form WPB 2720 for any other purpose.

(4) In approving any application on Form WPB 2720, the War Production Board may write on the form conditions restricting the delivery, resale, or use of the lumber, and such restrictions shall be binding not only on the applicant but also on all persons who know or have reason to believe that the restrictions exist.

(f) *Limitation on purchase for construction.* In addition to the above restrictions, no person shall purchase from a producer any of the following grades of restricted western lumber for use in

the erection, construction, reconstruction, restoration or remodeling of any building, structure or project (including lumber for additions or extensions and maintenance or repair, and including lumber for production of fabricated articles used in construction such as doors, windows, sashes and the like, except as may be specifically authorized under paragraph (c) (5) of this order, or upon the direction of the War Production Board pursuant to paragraph (h), of this order; No. 1, No. 2, No. 3, No. 4, No. 5 common; inch shop, 5/4 and thicker No. 2 shop and 5/4 and thicker No. 3 shop; No. 1 box, No. 2 box; No. 1 dimension, No. 2 dimension.

(g) *Inventory restrictions.* No person may accept delivery of restricted western lumber if his inventory is, or by reason of such acceptance, would become in excess of a 90-day supply, except that a 90-day supply may be exceeded to the extent necessary to receive delivery under existing minimum carloading regulations, and he may accept any amount he is authorized to accept on Form WPB 2720, or any other applicable form, or under the provisions of any directive or direction under this order.

(h) *Directives and directions.* The term "directive" as used in this order means written instructions to a specific firm or individual on the delivery or use of western lumber. The term "direction" means published instructions to a group or class. The War Production Board may issue directions or directives allocating specific quantities or percentages of production or shipments to specified persons or classes or for specified uses. It may also direct how and in what quantity delivery to specified persons or classes or uses may be made. It may direct distribution to particular areas and may direct or prohibit the production by any persons of particular items of restricted western lumber. Directions and directives may supersede any preference ratings assigned to particular purchase orders or contractors. Directions and directives will be issued in accordance with approved programs for the satisfaction of war and essential civilian requirements, and in order to carry out more fully the purposes of this order.

(i) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board as amended from time to time except where otherwise stated.

(j) *Appeals.* Any appeal from the provisions of this order shall be made by mailing a letter to the War Production Board referring to the particular provision appealed from and stating fully the grounds of the appeal.

(k) *Violations.* Any person who wilfully violates any provision of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

(l) *Communications.* All communications concerning this order shall be addressed as follows: Lumber and Lumber Products Division, War Production Board, Washington 25, D. C., Ref.: L-290.

This order shall take effect on March 27, 1944.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3892; Filed, March 20, 1944; 11:03 a. m.]

PART 3285—LUMBER AND LUMBER PRODUCTS

[Conservation Order M-361, as Amended Mar. 20, 1944]

DELIVERIES OF SOUTHERN YELLOW PINE LUMBER FROM SAWMILL STOCK

Section 3285.101 *Conservation Order M-361* is amended to read as follows:

§ 3285.101 *Conservation Order M-361*—(a) *What this order does.* This order regulates the transfer or delivery of certain kinds of southern yellow pine lumber from sawmill stock by lumber producers and by wholesalers who get lumber from producers under this order. It confines deliveries to those made for certain classes of essential uses and for uses which may be expressly authorized by the War Production Board.

(b) *Definitions.* For the purposes of this order:

(1) "Restricted southern yellow pine lumber" means any sawed southern yellow pine lumber of any size or grade, including round edge, rough, dressed on one or more sides or edges, dressed and matched, shiplapped, worked to pattern, or grooved for splines. However, the term does not include:

(i) Shingles, lath, slabs, railroad cross ties or switch ties, mine ties;

(ii) Edgings, trims and off-fall less than three inches wide or less than four feet long unless produced for the purposes of evading this order; and

(iii) Used lumber.

(2) "Producer" means:

(i) Any sawmill which produces currently over five thousand feet, board measure, of any one or more species of lumber (whether lumber restricted by this order or not) per average day of eight hours of continuous operation, or which produced an average of over five thousand feet of such lumber per day during the days when it was in operation from June 3, 1943, to December 3, 1943. A sawmill producing a smaller amount of lumber per day may at its election also be classed as a "producer."

(ii) "Producer" also includes any concentration yard or plant other than a sawmill, however large or small its output may be, if it is located in an area where restricted southern yellow pine lumber is produced, and processes by drying, sawing, edging, planing, or other comparable method 25 percent or more of the total volume of logs and lumber received by it, and if it sells or otherwise disposes of the product of such processing as lumber.

(iii) "Producer" does not include any establishment known in the trade as a distribution yard engaged either in the retail or wholesale business, even though such a yard may process more than 25 percent of the volume of lumber it receives for the servicing of special orders from customers.

(3) "Sawmill stock" means any restricted southern yellow pine lumber in the possession of a "producer". Restricted southern yellow pine lumber which the producer has delivered to others or transferred to his own use is no longer part of "sawmill stock" if the delivery or transfer is permitted by the War Production Board under this order or otherwise.

(4) "War agency" means the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, Veterans Administration, and any agency of the United States Government placing orders for material or equipment to be delivered to or for the account of any other country under the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(5) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency or any organized group of persons, whether incorporated or not.

(c) *General restrictions.* No person shall sell, ship, deliver, or dispose of, and no person shall accept delivery of, any restricted southern yellow pine lumber out of the "sawmill stock" of a "producer" unless authorized or permitted in one of the ways stated below. This restriction applies to any transfer from a person's "sawmill stock" to his own or affiliated distribution yard, retail sales department, cut-up plant, box factory, or other plant where fabricated products made from lumber, rather than lumber products, are produced for his own use or for resale.

(1) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any person for whom the Central Procuring Agency, Procurement Division of the United States Corps of Engineers, has issued a notification on a purchase inquiry known as a "purchase allocation." The delivery may be made on the basis of such a "purchase allocation" or on the basis of a certificate as prescribed in paragraph (d) (1) indicating that the person certifying has received a purchase allocation.

(2) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any War agency as defined in paragraph (b) (4), or to, or for the account of any contractor or sub-contractor for a War agency, if the lumber is required to fill an outstanding contract or purchase order of a War agency for direct delivery to the War agency, or for construction of a

building, wharf, or other structure for a War agency, or for incorporation into any material already ordered by or for a War agency, or for packing, boxing, crating, or stowing of any material already ordered by or for a War agency. However, the delivery may not be made unless there is endorsed on the purchase order or contract a certificate as explained in paragraph (d) (2).

(3) Southern yellow pine lumber actually in transit on March 27, 1944, which was unrestricted before March 27, 1944, may be delivered to its ultimate destination.

(4) Delivery of "sawmill stock" between "producers" may be made freely.

(5) Delivery may be made as authorized on Form WPB 2720. See paragraph (e) for instructions as to the use of this form.

(6) Delivery may be made as authorized or directed by the War Production Board in a specific directive or in a direction, as explained in paragraph (g).

(d) *Certificates that may be used to get restricted Southern yellow pine.* Unless a directive or direction issued by the War Production Board says that it must be done in some other way, one of the following forms of certificate must be endorsed on or attached to the purchase order whenever, under this order, a certificate is required. The certificate prescribed in Priorities Regulations 3 and 7 may not be used instead.

(1) *Certificates to be used by purchaser who has received a "purchase allocation."*

The purchaser of this lumber certifies to the seller and to the War Production Board that t is lumber is required for Purchase Allocation Number ____ issued by the Central Procuring Agency, in compliance with paragraph (c) (1) of Conservation Order M-361, with which I am familiar and that the use of any rating shown on this purchase order is authorized.

Purchaser

Date ____ By ____
Duly authorized official

(2) *Certificate for requirements of War agency.*

The purchaser of this lumber certifies to the seller and to the War Production Board that this lumber is required for prime contract (or purchase order) Number ____ entered into by

---
War Agency

for use by ____
War Agency, Contractor or Sub-contractor

in compliance with paragraph (c) (2) of Conservation Order M-361 with which I am familiar and that the use of any rating shown on this purchase order is authorized.

Purchaser

Date ____ By ____
Duly authorized official

(3) *Certificate for wholesalers or agent for authorizations issued to them on Form WPB 2720 (see paragraph (e) (3)).*

This lumber is required for a delivery authorized on Form WPB 2720, WPB Case Number ____, and delivery may be made under paragraph (c) (5) of M-361, with which I am familiar and the use of any rating shown on this purchase order is authorized.

Wholesaler

Date____ By____
Duly authorized official

Certificates must be retained in the sellers files for inspection by government representatives, and are legally made to the War Production Board as well as to the seller. Any false statement is punishable by fine and imprisonment. No person, whether or not he was the person who purchased the lumber, may use the lumber for any purpose except the purpose indicated on the certificate. If for any reason a purchaser is unable to use lumber for the purposes stated in the certificate, he must apply on Form WPB 2720 for permission to use the lumber for other purposes. A seller may rely on the statements made to him in a certificate only if he does not know or have reason to believe that they are false. The above provisions apply also to any form of certificate which may be prescribed in a directive or direction under this order.

(e) *Use of Form WPB 2720 for permission to get delivery.* (1) Persons including distributors, not entitled to use one of the certificates provided for in this order or in a direction issued pursuant to this order who wish to have permission from the War Production Board to get lumber either directly or indirectly from a "producer" may apply for such permission on Form WPB 2720. Before applying to the War Production Board the person should first place a purchase order with the supplier who may be either a "producer" or a wholesaler, or agent.

(2) As soon as the supplier has indicated that he can or will deliver the lumber, the person wishing to get it should then file Form WPB 2720 with the War Production Board. The name and address of the supplier should be indicated in the space provided for "producer" and all information called for on the form should be fully supplied. If the War Production Board approves the application, it will be noted on the form and copies will be returned to the applicant and the supplier.

(3) If a wholesaler or agent wants to get restricted southern yellow pine lumber from a "producer" for delivery to a specific customer, as distinct from putting it in his own inventory, he must get his customer to make an application to the War Production Board on Form 2720. The application should be made out the same way as explained in paragraph (e) (2). The War Production Board, if it grants the authorization, will send it both to the customer and to the wholesaler or agent, and he may get lumber from any producer, using the form of certification prescribed in paragraph (d) (3). This provision takes the place of Direction 2 to this order.

(4) Whenever a person wishes to dispose of restricted southern yellow pine lumber out of his own "sawmill stock" at retail or transfer any such lumber to his own or affiliated distribution yard, retail sales department, cut-up plant, mill work plant, box factory or other plant where fabricated products rather than lumber are made, permission must first be obtained from the War Production Board by applying on Form WPB 2720. The form should be filled out as if the person were a receiver, and "Special Instructions for Producers" on the top of the reverse side of the form should be disregarded. Persons having "sawmill stocks" may apply on Form WPB 2720 quarterly or at more frequent intervals for permission to sell lumber at retail or transfer it to their distribution yards or other plants. After permission has been granted the person may dispose of or transfer only the quantities permitted on the approved form. Except in cases of emergency, producers should not apply on Form WPB 2720 for any other purpose.

(5) In approving any application on Form WPB 2720, the War Production Board may write on the form conditions restricting the delivery, resale, or use of the lumber, and such restrictions shall be binding not only on the applicant but also on all persons who know or have reason to believe that the restrictions exist.

(f) *Inventory restrictions.* No person may accept delivery of restricted southern yellow pine lumber if his inventory is, or by reason of such acceptance, would become in excess of a 90-day supply, except that a 90-day supply may be exceeded to the extent necessary to receive delivery under existing minimum carloading regulations, and he may accept any amount he is authorized to accept on Form WPB 2720, or any other applicable form, or under the provisions of any directive or direction under this order.

(g) *Directives and directions.* The term "directive" as used in this order means written instructions to a specific firm or individual on the delivery or use of southern yellow pine lumber. The term "direction" means published instructions to a group or class; for example, Direction 1 to this order applying to all farm machinery manufacturers. The War Production Board may issue directions or directives allocating specific quantities or percentages of production or shipments to specified persons or classes or for specified uses. It may also direct how and in what quantity delivery to specified persons or classes or uses may be made. It may direct distribution to particular areas and may direct or prohibit the production by any persons of particular items of restricted southern yellow pine lumber. Directions and directives may supersede any preference ratings assigned to particular purchase orders or contractors. Directions and directives will be issued in accordance with approved programs for the satisfaction of war and essential civilian requirements, and in order to carry out more fully the purposes of this order.

(h) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board as amended from time to time except where otherwise stated.

(i) *Appeals.* Any appeal from the provisions of this order shall be made by mailing a letter to the War Production Board referring to the particular provision appealed from and stating fully the grounds of the appeal.

(j) *Violations.* Any person who wilfully violates any provision of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

(k) *Communications.* All communications concerning this order shall be addressed as follows: Lumber and Lumber Products Division, War Production Board, Washington 25, D. C. Ref: M-361.

This order shall take effect on March 27, 1944.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3893; Filed, March 20, 1944; 11:02 a. m.]

PART 3285—LUMBER AND LUMBER PRODUCTS

[Conservation Order M-364, as Amended Mar. 20, 1944]

DELIVERIES OF HARDWOOD LUMBER FROM SAWMILL STOCK

Section 3285.106 *Conservation Order M-364* is amended to read as follows:

§ 3285.106 *Conservation Order M-364*—(a) *What this order does.* This order regulates the transfer or delivery of certain kinds of hardwood lumber from sawmill stock by lumber producers and by wholesalers who get lumber from producers under this order. It confines deliveries to those made for certain classes of essential uses and for uses which may be expressly authorized by the War Production Board.

(b) *Definitions.* For the purposes of this order:

(1) "Restricted hardwood lumber" means any sawed hardwood lumber of any size or grade including round edge, rough, dressed on one or more sides or edges, dressed and matched, shiplapped, worked to pattern, or grooved for splines, of the following species: oak, ash, hickory and pecan, birch (except white birch produced in New England), hard maple, rock elm, and beech. However, the term does not include:

(i) Shingles, lath, slabs, railroad cross ties or switch ties, mine ties;

(ii) Edgings, trims and off-fall less than three inches wide or less than four feet long unless produced for the purposes of evading this order; and

(iii) Used lumber.

(2) "Producer" means:

(i) Any sawmill which produces currently over five thousand feet, board measure, of any one or more species of lumber (whether lumber restricted by this order or not) per average day of eight hours of continuous operation, or which produced an average of over five thousand feet of such lumber per day during the days when it was in operation from June 3, 1943, to December 3, 1943. A sawmill producing a smaller amount of lumber per day may at its election also be classed as a "producer."

(ii) "Producer" also includes any concentration yard or plant other than a sawmill, however large or small its output may be, if it is located in an area where restricted hardwood lumber is produced, and processes by drying, sawing, edging, planing, or other comparable method 25 percent or more of the total volume of logs and lumber received by it, and if it sells or otherwise disposes of the product of such processing as lumber.

(iii) "Producer" does not include any establishment known in the trade as a distribution yard engaged either in the retail or wholesale business, even though such a yard may process more than 25 percent of the volume of lumber it receives for the servicing of special orders from customers.

(3) "Sawmill stock" means any restricted hardwood lumber in the possession of a "producer". Restricted hardwood lumber which the producer has delivered to others or transferred to his own use is no longer part of "sawmill stock" if the delivery or transfer is permitted by the War Production Board under this order or otherwise.

(4) "War agency" means the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, Veterans Administration, and any agency of the United States Government placing orders for material or equipment to be delivered to or for the account of any other country under the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(5) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(c) *General restrictions.* No person shall sell, ship, deliver, or dispose of, and no person shall accept delivery of, any restricted hardwood lumber out of the "sawmill stock" of a "producer" unless authorized or permitted in one of the ways stated below. This restriction applies to any transfer from a person's "sawmill stock" to his own or affiliated distribution yard, retail sales department, cut-up plant, box factory, or other plant where fabricated products made from lumber, rather than lumber products, are produced for his own use or for resale.

(1) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any person for whom the Central Procuring Agency, Procurement Division of the United States Corps of Engineers, has issued a notification on a purchase inquiry known as a "purchase allocation." The delivery may be made on the basis of such a "purchase allocation" or on the basis of a certificate as prescribed in paragraph (d) (1) indicating that the person certifying has received a purchase allocation.

(2) Delivery may be made (either directly or through one or more intervening persons) to or for the account of any War agency as defined in paragraph (b) (4), or to, or for the account of any contractor or sub-contractor for a War agency, if the lumber is required to fill an outstanding contract or purchase order of a War agency for direct delivery to the War agency, or for construction of a building, wharf, or other structure for a War agency, or for incorporation into any material already ordered by or for a War agency, or for packing, boxing, crating, or stowing of any material already ordered by or for a War agency. However, the delivery may not be made unless there is endorsed on the purchase order or contract a certificate as explained in paragraph (d) (2).

(3) Hardwood lumber actually in transit on March 27, 1944, which was unrestricted before March 27, 1944 may be delivered to its ultimate destination.

(4) Delivery of "sawmill stock" between "producers" may be made freely.

(5) Delivery may be made as authorized on Form WPB 2720. See paragraph (e) for instructions as to the use of this form.

(6) Delivery may be made as authorized or directed by the War Production Board in a specific directive or in a direction, as explained in paragraph (g).

(d) *Certificates that may be used to get restricted hardwood lumber.* Unless a directive or direction issued by the War Production Board says that it must be done in some other way, one of the following forms of certificate must be endorsed on or attached to the purchase order whenever, under this order, a certificate is required. The certificate prescribed in Priorities Regulations 3 and 7 may not be used instead.

(1) *Certificates to be used by purchaser who has received a "purchase allocation."*

The purchaser of this lumber certifies to the seller and to the War Production Board that this lumber is required for Purchase Allocation Number ____ issued by the Central Procuring Agency, in compliance with paragraph (c) (1) of Conservation Order M-364, with which I am familiar and that the use of any rating shown on this purchase order is authorized.

_____
Purchaser

Date_____ By_____
Duly authorized official

(2) *Certificate for requirements of War agency.*

The purchaser of this lumber certifies to the seller and to the War Production Board that this lumber is required for prime con-

tract (or purchase order) Number ____ entered into by

_____
War Agency

for use by _____
War Agency, Contractor or Sub-Contractor

in compliance with paragraph (c) (2) of Conservation Order M-364 with which I am familiar and that the use of any rating shown on this purchase order is authorized.

_____
Purchaser

Date_____ By_____
Duly authorized official

(3) *Certificate for wholesalers or agent for authorizations issued to them on Form WPB 2720 (see paragraph (e) (3)).*

This lumber is required for a delivery authorized on Form WPB 2720, WPB Case Number ____, and delivery may be made under paragraph (c) (5) of M-364, with which I am familiar and the use of any rating shown on this purchase order is authorized.

_____
Wholesaler

Date_____ By_____
Duly authorized official

Certificates must be retained in the seller's files for inspection by government representatives, and are legally made to the War Production Board as well as to the seller. Any false statement is punishable by fine and imprisonment. No person, whether or not he was the person who purchased the lumber, may use the lumber for any purpose except the purpose indicated on the certificate. If for any reason a purchaser is unable to use lumber for the purposes stated in the certificate, he must apply on Form WPB 2720 for permission to use the lumber for other purposes. A seller may rely on the statements made to him in a certificate only if he does not know or have reason to believe that they are false. The above provisions apply also to any form of certificate which may be prescribed in a directive or direction under this order.

(e) *Use of Form WPB 2720 for permission to get delivery.* (1) Persons, including distributors, not entitled to use one of the certificates provided for in this order or in a direction issued pursuant to this order who wish to have permission from the War Production Board to get lumber either directly or indirectly from a "producer" may apply for such permission on Form WPB 2720. Before applying to the War Production Board the person should first place a purchase order with the supplier who may be either a "producer" or a wholesaler, or agent.

(2) As soon as the supplier has indicated that he can or will deliver the lumber, the person wishing to get it should then file Form WPB 2720 with the War Production Board. The name and address of the supplier should be indicated in the space provided for "producer" and all information called for on the form should be fully supplied. If the War Production Board approves the application, it will be noted on the form and copies will be returned to the applicant and the supplier.

(3) If a wholesaler or agent wants to get restricted hardwood lumber from a "producer" for delivery to a specific customer, as distinct from putting it in his own inventory, he must get his customer to make an application to the War Production Board on Form 2720. The application should be made out the same way as explained in paragraph (e) (2). The War Production Board, if it grants the authorization, will send it both to the customer and to the wholesaler or agent, and he may get lumber from any producer, using the form of certification prescribed in paragraph (d) (3). This provision takes the place of Direction 2 to this order.

(4) Whenever a person wishes to dispose of restricted hardwood lumber out of his own "sawmill stock" at retail or transfer any such lumber to his own or affiliated distribution yard, retail sales department, cut-up plant, mill work plant, box factory or other plant where fabricated products rather than lumber are made, permission must first be obtained from the War Production Board by applying on Form WPB 2720. The form should be filled out as if the person were a receiver, and "Special Instructions for Producers" on the top of the reverse side of the form should be disregarded. Persons having "sawmill stocks" may apply on Form WPB 2720 quarterly or at more frequent intervals for permission to sell lumber at retail or transfer it to their distribution yards or other plants. After permission has been granted the person may dispose of or transfer only the quantities permitted on the approved form. Except in cases of emergency, producers should not apply on Form WPB 2720 for any other purpose.

(5) In approving any application on Form WPB 2720, the War Production Board may write on the form conditions restricting the delivery, resale, or use of the lumber, and such restrictions shall be binding not only on the applicant but also on all persons who know or have reason to believe that the restrictions exist.

(f) *Inventory restrictions.* No person may accept delivery of restricted hardwood lumber if his inventory is, or by reason of such acceptance, would become in excess of a 90-day supply, except that a 90-day supply may be exceeded to the extent necessary to receive delivery under existing minimum carloading regulations, and he may accept any amount he is authorized to accept on Form WPB 2720, or any other applicable form, or under the provisions of any directive or direction under this order.

(g) *Directives and directions.* The term "directive" as used in this order means written instructions to a specific firm or individual on the delivery or use of hardwood lumber. The term "direction" means published instructions to a group or class; for example, Direction 1 to this order applying to all farm machinery manufacturers. The War Production Board may issue directions or directives allocating specific quantities or percentages of production or shipments to specified persons or classes or for specified uses. It may also direct how and in what quantity delivery to specified persons or classes or uses may be made. It may direct distribution to particular areas and may direct or prohibit the production by any persons of particular items of restricted hardwood lumber. Directions and directives may supersede any preference ratings assigned to particular purchase orders or contractors. Directions and directives will be issued in accordance with approved programs for the satisfaction of war and essential civilian requirements, and in order to carry out more fully the purposes of this order.

(h) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board as amended from time to time except where otherwise stated.

(i) *Appeals.* Any appeal from the provisions of this order shall be made by mailing a letter to the War Production Board referring to the particular provision appealed from and stating fully the grounds of the appeal.

(j) *Violations.* Any person who wilfully violates any provision of this order or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

(k) *Communications.* All communications concerning this order shall be addressed as follows: Lumber and Lumber Products Division, War Production Board, Washington 25, D. C. Ref.: M-364.

(l) *Effective date.* This order shall take effect on March 27, 1944.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3894; Filed, March 20, 1944; 11:03 a. m.]

PART 3286[1]—MISCELLANEOUS MINERALS

[General Conservation Order M-146, as Amended Mar. 20, 1944]

QUARTZ CRYSTALS

§ 3286.36 *Conservation Order M-146*—(a) *Definitions.* For the purpose of this order:

(1) "Quartz crystals" means naturally occurring crystalline quartz having a transparent interior, each single crystal of which weighs not less than 50 grams. The term includes any piece cut from quartz crystals except blanks, fabricated forms, and scrap. The term also does not include the following types of quartz:

Amethyst quartz.
Rose quartz.
Yellow quartz (sometimes known as false topaz or citrene).
Milky quartz.
Siderite or sapphire quartz.

[1] Formerly Part 1218, § 1218.1.

Sagenitic quartz (enclosing crystals of rutile, tourmaline, stibnite, asbestos, hornblende, epidote, etc.).
Cat's-eye or tiger's-eye quartz.
Aventurine quartz (spangled with scales of mica, hematite, or other minerals).
Chalcedony quartz.
Carnelian quartz.
Chrysoprase quartz.
Prase quartz.
Agate quartz.
Onyx quartz.
Sardonyx quartz.
Agate-jasper quartz.
Flint quartz.
Hornstone quartz.
Basanite, lydian stone, or touchstone.
Jasper quartz.

(2) "Blank" means any semi-fabricated piece of quartz crystal which is of such size, shape, and physical characteristics as to be suitable for the fabrication of radio oscillators or filters or other products for use in implements of war, of telephone resonators, or of optical parts. The term includes wafers, bars, sections, and other semi-fabricated forms. The term does not include scrap.

(3) "Scrap" means that part of any quartz crystal, other than a blank or a semi-fabricated or fabricated form, remaining after a piece or pieces have been cut therefrom, if such remnant, because of size, shape, or physical characteristics, is not suitable for the fabrication of radio oscillators or filters or other products for use in implements of war, of telephone resonators, or of optical or electrical parts.

(4) "Supplier" means any person who imports or produces from domestic sources quartz crystals for the purpose either of his own fabrication or of sale to others, or who sells quartz crystals to others.

(5) "Fabricator" means any person who fabricates blanks or other semi-fabricated or fabricated forms from quartz crystals.

(6) "Put into fabrication" means the first change by the fabricator in the form of quartz crystals from that form in which such crystals were received by him.

(7) "Fabricate" means cut, saw, file, grind, polish, or otherwise change the form, shape, or characteristics. The term includes mounting or installing in holders.

(8) "Implements of war" means:

(i) Combat end products complete for tactical operations, including, but not limited to, aircraft, ammunition, armament and weapons, ships, tanks, and vehicles;

(ii) Parts, assemblies, and materials to be physically incorporated in any of the foregoing items;

(iii) Facilities or equipment used to manufacture any of the foregoing items, produced for the Army or Navy of the United States, the United States Maritime Commission, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Civil Aeronautics Authority, the National Advisory Committee for Aeronautics, the Office of Scientific Research and Development, or for any foreign country, pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(b) *Restrictions on fabrications.* (1) On and after March 20, 1944, no person shall fabricate quartz crystals or blanks except in the manufacture of:

(i) Radio oscillators and filters or other products for use in implements of war, or in Governmental activities directly connected with defense, public health, welfare, or security.

(ii) Radio oscillators and filters for use in radio systems to be owned, used, and operated by Federal agencies, by commercial broadcasting stations, or by commercial air lines, or for use in commercial communication systems.

(iii) Telephone resonators,

(iv) Optical or electrical parts for use in implements of war, or for use in research or production instruments manufactured to fill orders bearing a preference rating of AA-2X or higher.

(v) Radio oscillators and filters and optical parts to be used in the replacement of parts which are defective, cracked, or broken, provided the equipment or instruments requiring such parts are implements of war or are needed solely in activities directly connected with defense, public health, welfare, or security, or

(vi) Radio oscillators and filters to be exported to any foreign country for use in radio systems owned, used, and operated by a governmental department or agency of such foreign country or for use by a commercial airline operating in such foreign country.

(2) On and after March 8, 1943 no person shall fabricate radio oscillators, radio filters, or optical parts from scrap except as specifically authorized in writing by the War Production Board. Application for such authorization shall be made by letter in triplicate.

(c) *Restrictions on purchase, receipt, and use.* On and after March 8, 1943, no person shall purchase or receive (unless for the purpose of selling or delivering to others), and no person shall use

(1) Quartz crystals or blanks, except for fabrication as permitted under the provisions of paragraph (b), or

(2) Fabricated forms of quartz crystals, except for purposes for which fabrication of quartz crystals is permitted under the provisions of paragraph (b): *Provided, however,* That the restrictions of this paragraph (c) (2) shall not apply to fabricated forms of quartz crystals which were already mounted or installed in holders on May 18, 1942, or to fabricated forms of quartz crystals, the purchase, receipt, or use of which has been specifically authorized by the War Production Board.

(d) *Special directions.* The War Production Board at its discretion may at any time issue special directions to any person with respect to the use, fabrication to final product, delivery, acceptance of delivery, or placing of orders by such person of or for quartz crystals, blanks, or semi-fabricated or fabricated forms thereof, or special directions to any fabricator with respect to the types and sizes of semi-fabricated and fabricated forms of quartz crystals which he may or must fabricate, and the grades and types of quartz crystals which he may or must use in the fabrication of such blanks or fabricated forms of quartz crystals.

(e) *Reports*—(1) *Stocks and inventories.* Every person who, on the 18th day of May, 1942, or on the last day of any calendar month thereafter has title to or is in possession or control of twenty-five (25) pounds or more of quartz crystals, or more than ten (10) pieces in the form of blanks or in other semi-fabricated or fabricated forms thereof, which have not been mounted or installed in holders, shall, on or before the close of business on the 5th day of the succeeding month, report to the War Production Board, in duplicate, on Form PD-484.

(2) *Fabrication.* Every person who fabricates quartz crystals or blanks during any calendar month shall report to the War Production Board in duplicate on Form PD-484 on or before the 5th day of the succeeding calendar month.

(3) *Other reports.* All persons affected by this order shall file such other reports as may be requested from time to time by the War Production Board.

(f) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(2) *Appeal.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(3) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Miscellaneous Minerals Division, Washington, D. C. Ref: M-146.

(4) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3895; Filed, March 20, 1944; 11:02 a. m.]

PART 3291—CONSUMERS DURABLE GOODS

[Limitation Order L–30–a, Direction 2]

SUPPLEMENTARY QUOTAS FOR SECOND QUARTER OF 1944

The following direction is issued pursuant to Limitation Order L–30–a:

This direction gives each manufacturer under Order L–30–a a supplementary quota of iron and steel for the second quarter of 1944 for use in making the following restricted articles: pails and buckets, wash tubs, wash boilers, funnels, fire shovels and storage cans for petroleum products. In addition to his quota under paragraph (d) (3), (d) (4), (e) (2), (f) (2) or (f) (3) of Order L–30–a, he may put into process in that quarter in the production of each of the articles listed above not more than three times 42½% of the average monthly amount of iron and steel put into process by him during the base period in the production of that restricted article. All articles made under this direction must be produced in accordance with all provisions of Order L–30–a other than the quota provisions mentioned above.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44–3897; Filed, March 20, 1944; 11:02 a. m.]

PART 3293—CHEMICALS

[Allocation Order M–340, Direction 1]

METHYL BROMIDE FOR FUMIGATION

The following direction is issued pursuant to Allocation Order M–340:

(a) Authorization for deliveries by producers of methyl bromide for fumigation will be issued by allocating a lump sum each month for this purpose, and producers need not list the names of their customers on Form WPB–2947 where the end use is fumigation.

(b) A distributor who purchases methyl bromide upon certification that it will be resold for fumigation purposes may resell and deliver it for that purpose without specific authorization upon application on Form WPB–2947.

(c) For the purpose of this direction fumigation means the fumigation of articles to meet the requirements of federal or state quarantine, and fumigation to control pests in households and storage or to meet regulations for control of these pests.

Issued this 20th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44–3898; Filed, March 20, 1944; 11:03 a. m.]

Subchapter C—Director, Office of War Utilities

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3666, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 4501—COMMUNICATIONS

[Utilities Order U-8]

ORDER LIMITING THE MANUFACTURE OF TELEPHONES

Order L–204[1] is given a new title U–8, and is amended to read as follows:

[1] Formerly Subchapter B, Part 1095, §1095.20.

The purpose of this order is to conserve materials and manufacturing capacity required for the prosecution of the war by restricting the manufacture of telephones. However, because of the prime necessity for maintaining telephone service, this order is not intended to prevent the maintenance, repair or conversion of telephone sets, nor is it intended to prevent the manufacture of parts to maintain, repair or convert telephone sets.

§ 4501.26[1] *Utilities Order U–8*—(a) *Definitions.* For the purpose of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, receiver or any form of enterprise whatsoever, whether incorporated or not.

(2) "Standard telephone set" means any telephone instrument except those on List B attached. It does not include any of the apparatus or wiring set forth on List A attached.

(3) "Wire intercommunicating telephone set" means any telephone set for use in a wire intercommunicating system which is not owned by a public telephone system and does not involve the use of substantial amounts of outside plant. Thus, it includes any telephone set for use in connection with a system contained within a building or within a group of buildings located nearby one another. It does not include a telephone set for use in a system employing large amounts of outside plant such as are required by the telephone lines of railroad or pipe line companies. Nor does it include a wire intercommunicating set which employs electronic tubes as an essential part of such set.

(b) *Restrictions.* (1) No person shall produce any standard telephone sets except:

(i) To fill orders of the kind shown on List C, or

(ii) To maintain an inventory specifically permitted by the War Production Board.

However, any person may maintain, repair or convert existing standard telephone sets.

(2) No person shall produce parts of standard telephone sets, except:

(i) For the maintenance, repair or conversion of existing telephone sets, or

(ii) For non-telephone use, or

(iii) For another person who regularly produces or assembles telephones for sale.

Any person producing telephone parts may produce any part in a minimum production run whenever his inventory contains less than a 60 days supply.

(3) No person shall sell parts of standard telephone sets manufactured after November 15, 1942 unless the buyer certifies in writing to the seller and the War Production Board that the parts are to be used:

(i) For maintenance, repair or conversion of existing telephone sets, or

(ii) For non-telephone use, or

(iii) To assemble telephone sets permitted by Order U-8, or

(iv) To assemble standard telephone sets permitted by a specific grant of relief from the restrictions of Order U-8 by the War Production Board.

However, parts manufactured and sold under a specific WPB permission to produce or assemble a complete telephone(s), may be resold without a certification as to use.

The requirement of this paragraph (b) (3) will be satisfied for all future purchase orders for telephone parts if the buyer makes a single written certification to his supplier and the War Production Board that all telephone parts ordered by him will be used only in ways described in this paragraph.

(4) No person shall produce or assemble any wire intercommunicating telephone sets except:

(i) To fill an order bearing a preference rating of AA–5 or higher for a maintenance replacement of an existing set or for additional stations within the designed capacity of an existing system.

(ii) To fill an order bearing a preference rating specifically assigned by the War Production Board on Form WPB–2774, for telephones in connection with a new wire intercommunicating system or with an addition beyond the designed capacity of an existing wire intercommunicating system.

(iii) To fill orders of the kinds shown on List C.

(iv) To maintain an inventory specifically permitted by the War Production Board.

(c) *Records.* All persons who produce or assemble telephone sets or parts shall keep and preserve for not less than two years accurate and complete records concerning production and sale of telephone sets and parts.

(d) *Reports.* All persons who produce or assemble telephone sets or parts shall make such reports as shall be required from time to time by the War Production Board; subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from process or use of, material under priority control, and may be deprived of priorities assistance.

(f) *Appeals.* Any person affected by this order may apply for relief by letter, specifying the particular provision involved and stating all the facts on which he relies.

(g) *Communications.* All reports required and all communications concerning this order shall be addressed to the Communications Division, Office of War Utilities, War Production Board, Washington (25), D. C., Reference: U-8.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

LIST A—ITEMS NOT AFFECTED BY THE ORDER

1. Jacks and plugs.
2. Switching keys.
3. Extension bells.
4. Loud-ringing bells.
5. Connecting blocks.
6. Protectors.
7. Station, drop and line wiring and cabling.
8. Battery boxes.
9. Dials or equivalent calling devices.

LIST B—TELEPHONES WHICH MAY BE MANUFACTURED

1. Head and chest telephone sets.
2. Telephone test sets for use in connection with the construction and maintenance of wire communication plant.
3. Any telephone set assembled in connection with a coin collecting device for use as a public pay station.
4. Outdoor and mine type telephone sets which are so designed as to employ a minimum of critical materials consistent with the essential service requirements.
5. Explosion proof sets for use in mines, and in locations in munitions plants and other essential industries where the use of a standard telephone set would give rise to danger of explosion.
6. Telephone sets, of special design, required for use on shipboard or in connection with underwater and flying operations and for gas masks.
7. Portable telephone sets (outdoor type) and sound powered telephone sets for use by railroads, pipe line companies, the Coast and Geodetic Survey, the Forest Service and the Alaska Highway.
8. Telephone sets for railroad train dispatching service or for railroad traffic control service, or for service with Railway Electric switch locks, ordered by, or for the account of, or for resale to railroad companies.
9. Push-to-talk handsets, that is, handsets having a selector device which permits the use of either the transmitter or the receiver or both, for use by the armed services.

LIST C—PERSONS FOR WHOM TELEPHONES MAY BE MANUFACTURED

1. Any telephone set or part ordered by, or for the account of, or for resale to, the Army or Navy of the United States, the United States Maritime Commission, the War Shipping Administration, the Panama Canal, the Coast Guard, and the Civil Aeronautics Administration.
2. Any telephone set or part for use in combat or for combat equipment, ordered by, or for the account of, or for resale to, the government of any of the following countries: Belgium, China, Czechoslovakia, Free France, Greece, Iceland, Netherlands, Norway, Poland, Russia, Turkey, United Kingdom, including its dominions, crown colonies and protectorates, and Yugoslavia, or any other country, including those of the Western Hemisphere, now or hereafter designated, pursuant to the Act of March 11, 1941 entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

[F. R. Doc. 44-3841; Filed, March 18, 1944; 11:21 a. m.]

Chapter XI—Office of Price Administration

PART 1347—PAPER, PAPER PRODUCTS, RAW MATERIALS FOR PAPER AND PAPER PRODUCTS, PRINTING AND PUBLISHING

[MPR 451,[1] Amdt. 2]

BOOK PAPER

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 451 is amended in the following respect:

Section 14 (a) (9) is amended to read as follows:

(9) "Grade", when used in paragraph (a) of Appendix A, refers to any group of brands of book paper which prior to the issuance of the regulation were recognized and accepted in the trade under the designation of the particular grade name. While each "grade" in this sense embraces book paper considered in the trade as having various common characteristics or as being of equivalent value, this regulation does not attempt to determine whether a particular brand of book paper has been properly grouped by the trade on the basis of such characteristics or value, but merely whether or not the brand involved was in fact treated by buyers and sellers of bookpaper as falling within the group denoted by the particular grade name. When used without reference to any group of brands, the term "grade" means one particular quality within a kind of book paper, such grade having the essential properties peculiar to such kind of paper and common to all grades within such kind, but distinguished from other such grades by a difference in the degree to which one or several of those common properties are emphasized. However, a difference in the degree to which any such property is emphasized, due only to a difference in ash content, in sizing, in the quantity of adhesive in the coating formula, or in the dyes used in the paper and/or coating shall not be considered as resulting in a different grade. Where there are such differences, the differentials and charges provided for in Appendices A and B of this regulation may, of course, be applied in appropriate cases.

This amendment shall become effective March 17, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 17th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3823; Filed, March 17, 1944; 4:33 p. m.]

PART 1305—ADMINISTRATION

[Gen. RO 5,[1] Amdt. 52]

FOOD RATIONING FOR EMPLOYEES ON BOARD SHIPS, TUGS AND BARGES

A rationale accompanying this amendmen, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

General Ration Order No. 5 is amended in the following respects:

1. A new section 7.9 is added to read as follows:

SEC. 7.9 *Allotments for Group IV users who feed employees on board ships, boats, tugs and barges.* (a) Beginning with the March-April 1944 allotment period, Group IV establishments on board ships, boats, tugs and barges will be granted allotments of rationed food for those establishments on the basis of the number of persons to be fed there and the number of days the vessel will be in operation during the allotment period.

(b) A Group IV institutional user who operates more than one establishment must reregister separately each establishment or combination of establishments which qualifies under this section (so that the allotment can be used only for feeding the persons for whose benefit it is granted). Upon reregistration, any remaining excess inventory may be apportioned among those establishments, as he chooses.

(c) Such users are not required to furnish the information called for by OPA Form R-1307 Supplement. Application for allotments for those establishments shall be made to the Board on OPA Form R-315, (instead of on OPA Form R-1309 (Revised)). The application must state:

(1) The name and address of the applicant and the name of the vessel where the persons covered by the application will be fed;

(2) The number of days he expects to operate the establishment during the allotment period (partial days of operation shall not be counted as full days, but one-quarter of a day shall be counted for each six hours or fraction thereof of operation);

(3) The number of persons he expects to feed on each day of operation, counting each person fed only once per day; and

(4) The percentage (by number) of bread, rolls, doughnuts and crullers, pies, cakes and pastries to be served during the period that the applicant himself will bake;

(5) On his application for allotments for the May–June 1944 Allotment period and subsequent periods, the application must also state the number of days he operated the establishment and the number of persons he fed each day during the preceding allotment period.

NOTE: A Group IV institutional user who qualifies for allotments under this section, may, if he also qualifies under the isolation provisions of section 27.1 or 27.2, apply for special allotments under those sections. He is not required to file a separate application but may include the information required for those special allotments when applying for allotments under this section, on OPA Form R-315.

(d) The allotment of each rationed food shall be computed in the following way:

(1) Take the total number of meals to be served during the allotment period (that number is to be figured on the basis of four meals per person for each day he is fed; for partial days of operation, one meal is to be figured for each six hours or fraction thereof of operation);

(2) Multiply that total by the allowance per person for that food as fixed in the supplement (using the regular or the

[1] 8 F.R. 11529, 9 F.R. 1532.

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 10002, 11676, 11480, 11479, 12483, 12557, 12403, 12744, 14472, 15488, 17486; 9 F.R. 401, 455, 492.

baking allowance, depending on the applicant's baking percentage);

(3) The result is the allotment for the period.

(e) If the applicant finds that he has to feed more persons, during the period, than he estimated in his original application, he may apply to the Board for permission to correct his estimate, and for an additional allotment computed on the basis of his corrected estimate, for the balance of the period. (Therefore he may not get supplemental allotments under Article XI.)

(f) When he next applies for allotments the Board shall determine the allotment he would have been entitled to receive for the preceding period, based on his actual figures. If the allotment he would have received is less than the allotment he actually received for that period, the difference shall be deducted from his next allotment.

2. Section 18.2 (e) is added to read as follows:

(e) A Group IV user operating an establishment on board a ship, boat, tug or barge is not required to keep, for that establishment, the records described in paragraph (c) of this section.

This amendment shall become effective March 23, 1944.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong.; as amended by Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Dir. 1, Supp. Dir. 1-E, 1-M and 1-R, 7 F.R. 562, 2965, 7234, 9684, respectively; Food Dir. 3, 5, 6 and 7, 8 F.R. 2005, 2251, 3471, respectively)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3843; Filed, March 18, 1944; 11:38 a. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[RO 1E,[1] Amdt. 7]

MILEAGE RATIONING: TIRE REGULATIONS FOR THE TERRITORY OF HAWAII

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 1E is amended in the following respect:

1. A new subdivision (ii) is added to section 4.2 (c) (1) to read as follows:

(ii) Each month the Director shall submit a list to the Boards specifying thereon the size of Grade III tires that are unavailable in the Territory as revealed by the latest monthly inventory. The Director may authorize the Boards to issue a certificate for a Grade I tire to an applicant who is engaged in preferred mileage purposes under section 5.6 of Ration Order 5F and who applies for the size of tire specified as being unavailable. Certificates may be issued pursuant to this provision even though the applicant's total allowed mileage does not exceed 600 miles per month, and all certificates so issued must be deducted from the Board's quota for Grade I tires.

This amendment shall become effective March 20, 1944.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. 1, 7 F.R. 562, Supp. Dir. 1-Q, 7 F.R. 9121, General Order No. 43, 8 F.R. 2893)

Issued this 18th day of March 1944.

MELVIN C. ROBBINS,
Territorial Director,
Territory of Hawaii.

Approved:

JAMES P. DAVIS,
Regional Administrator,
Region IX.

[F. R. Doc. 44-3853; Filed, March 18, 1944; 11:40 a. m.]

PART 1400—TEXTILE FABRICS: COTTON, WOOL, SILK, SYNTHETIC, AND ADMIXTURES

[MPR 127, Corr. to Amdt. 19]

FINISHED PIECE GOODS

In § 1400.82 (s) (1) of Amendment No. 19 to Maximum Price Regulation No. 127, the date "April 15, 1943" is corrected to read "April 15, 1944".

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator

[F. R. Doc. 44-3854; Filed, March 18, 1944; 11:41 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[Rev. RO 3,[1] Amdt. 5]

HOME CANNING SUGAR

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Ration Order 3 is amended in the following respects:

1. Section 1407.21 (c) (30) is amended to read as follows:

(30) "Coupon" means a "sugar allowance coupon" (OPA Form Nos. R-324, R-325, R-326, or R-327) or a "ration coupon" (OPA Form R-325 (Revised)).

2. Section 1407.71 is amended to read as follows:

§ 1407.71 *Home processing and preserving for use*—(a) *Who may apply.* A person registered as a consumer may obtain "ration coupons" (OPA Form R-325, Revised) with which to get sugar for doing home preserving of fruits, fruit juices, or vegetables for use, and for producing processed foods from fruits, fruit juices, or vegetables (for use) in accordance with sections 26.2, 26.4, 26.4a, 26.5 and 26.6 of Revised Ration Order 13 (or for making the gifts permitted by those sections). However, for the period from March 1, 1944, to February 28, 1945, a consumer may not obtain coupons under this section for more than 20 pounds of sugar.

(b) *How application is made.* A consumer may apply, in person or by mail, on OPA Form R-323, for the sugar he needs for the purposes covered by this section. Application shall be made to the Board for the place where the applicant lives. One application may be made covering more than one consumer, if they all live at the same address, but the name of each shall be listed on the application. (The consumer signing the application must, however, be authorized to apply for each person he lists.) The applicant shall give the information required by OPA Form R-323 and shall attach to his application Spare Stamp No. 37 from the War Ration Book Four of each consumer on whose behalf the application is made. (Since each "ration coupon" authorizes the delivery of five pounds of sugar, application for each consumer must be made for either 5, 10, 15 or 20 pounds of sugar.) If the Board finds that the facts stated in the application are true and that a Spare Stamp No. 37 for each person for whom application is made is attached thereto, it shall grant the application in the amount needed for the purpose specified in paragraph (a), but not to exceed twenty pounds per person. It shall issue "ration coupons" for the amount of sugar granted.

(c) *How additional applications may be made.* A consumer who, for the period from March 1, 1944, to February 28, 1945, inclusive, has obtained "ration coupons" for less than twenty pounds of sugar and who needs more sugar for the purposes covered by this section may file another application on OPA Form R-323 at the same Board, and obtain "ration coupons" for the additional amount of sugar he needs up to the twenty pound total permitted by paragraph (a). The consumer's Spare Stamp No. 37 need not be attached to such application. If the Board finds that the facts stated in the application are true, it shall grant the application and issue "ration coupons" for the amount of sugar needed, subject to that twenty pound maximum.

(d) *How sugar obtained under this section may be used.* Sugar obtained under this section may be used only for the purposes for which it was granted. Processed foods produced with it may be used only as permitted by sections 26.2, 26.4, 26.4a, 26.5 and 26.6 of Revised Ration Order 13.

(e) *Board may issue certificates instead of ration coupons and a consumer may exchange them for "ration coupons".*

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 12434, 13920, 15378, 15661, 17223; 9 F.R. 727.

[1] 9 F.R. 1433, 1534, 2233.

For the period from March 1, 1944, to April 20, 1944, inclusive, a Board may issue a certificate or certificates instead of "ration coupons". A consumer who receives such certificates may at any time from April 20, 1944, to May 10, 1944, inclusive, exchange them, at the Board, for "ration coupons" of equal value.

3. Section 1407.71a is amended to read as follows:

§ 1407.71a *Home processing for sale*—(a) *Who may apply.* A person registered as a consumer may obtain from the Board certificates with which to get sugar to produce, from fresh fruits and fruit juices, "home processed foods" (as defined in section 26.1 of Revised Ration Order 13), other than those having a zero point value, which he intends to transfer for points in accordance with section 26.3 or 26.4a of Revised Ration Order 13.

(b) *How application is made.* Applications under this section shall be made to the Board, on OPA Form R–315, personally by the consumer applying for the family unit. The applicant shall state:

(1) The number of pounds of "home processed foods" (other than jams, jellies, preserves, marmalades or fruit butters) he intends to produce from fruits and fruit juices.

(2) The number of pounds of prepared fruit he intends to use in making jams, preserves and marmalades.

(3) The number of pounds of prepared fruit (or pints of fruit juices) he intends to use in making jellies.

(4) The number of pounds of prepared fruit (pulp) he intends to use in making fruit butter.

(5) The address at which the processing will be done.

(6) The type of facilities to be used.

(7) The number of pounds of sugar applied for.

(8) If any member of his family unit has obtained sugar under this section before March 1, 1944. If so, he must account for the "home processed" foods produced with such sugar, before the application may be granted. (Thus the family unit must either have an inventory of such foods, or have made the reports and surrendered the points required by Revised Ration Order 13 for their transfer.)

(9) If any member of his family unit has received an allowance under this section after March 1, 1944; if so (i) the name of the member who applied; (ii) the address of the Board at which the application was filed; and (iii) the number of pounds of sugar so obtained.

The applicant, in answering (1), (2), (3), and (4) shall not include any products which, at the time of application, have a zero point value.

(c) *The amounts that may be obtained.* Sugar may be obtained and used at the rate of not more than:

(1) One pound per four quarts (or 8 pounds) of finished home processed foods (other than jams, jellies, preserves, marmalades or fruit butters) produced from fruits or fruit juices;

(2) One pound per pound of prepared fruit used for making jams, preserves and marmalades;

(3) One pound per two pounds of prepared fruit (or one pint fruit juice) used for making jelly;

(4) One pound per two pounds of prepared fruit (pulp) used for making fruit butter.

However, the total amount of sugar which may be obtained by a family unit for all these purposes for the period from March 1, 1944, to February 28, 1945, inclusive, shall not exceed 250 pounds, and no sugar shall be granted for the production of a product having a zero point value at the time of application.

(d) *When application may be made.* Applications under this section may be made at any time from March 1, 1944, to February 28, 1945, inclusive.

(e) *The Board may issue certificates.* If the Board finds that the facts stated in the application are true (and if all sugar granted to the applicant or to a member of his family unit under this section before March 1, 1944, has been accounted for as provided in paragraph (b) (8)) it shall grant the application to the extent permitted under the provisions of this section and shall issue a certificate for the amount of sugar allowed.

(f) *The applicant must make reports and keep records.* The applicant shall make the reports and keep the records required of him by Revised Ration Order 13.

(g) *How sugar may be used and home processed foods transferred.* Sugar obtained under this section may be used only for the purposes for which it was granted and at a rate no higher than that permitted by paragraph (c). Home processed foods produced with such sugar shall be delivered, sold or transferred only in accordance with the provisions of Revised Ration Order 13.

4. Section 1407.72 is amended by deleting the words "producing processed foods from fresh fruits for use, in accordance with sections 26.2, 26.5 and 26.6" and inserting in place thereof the following: "doing home preserving of fruits, fruit juices or vegetables for use, and for producing processed foods from fruits, fruit juices, or vegetables (for use) in accordance with sections 26.2, 26.4, 26.4a, 26.5, and 26.6".

5. Section 1407.142a (a) is amended by deleting from the first sentence the words "and bearing the serial number of the consumer's book" and by deleting the second sentence thereof.

6. Section 1407.142a (b) is amended to read as follows:

(b) (1) A "sugar allowance coupon" (OPA Form Nos. R–324, R–325, R–326, or R–327) received, in accordance with this order, by a registering unit which is neither a depositor nor required to be one, authorizes the registering unit to take delivery of sugar, in an amount equal to the weight value of the "coupon", until March 31, 1944. If surrendered to a depositor, it shall be valid for deposit in his account until April 10, 1944.

(2) A "ration coupon" (OPA Form R–325 (Revised)) may be used by a consumer at any time to get five pounds of sugar. A "ration coupon" received, in accordance with this order, by a registering unit which is neither a depositor nor required to be one authorizes the registering unit to take delivery of five pounds of sugar at any time. A "ration coupon" surrendered to a depositor is valid for deposit in his account at any time.

This amendment shall become effective March 23, 1944.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 421, 77th Cong., E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Dir. No. 1 and Supp. Dir. No. 1E, 7 F.R. 562, 2965; Food Dir. No. 3, 8 F.R. 2005; Food Dir. 8, 8 F.R. 7093)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44–3844; Filed, March 18, 1944; 11:40 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[Rev. RO 13,[1] Amdt. 17]

PROCESSED FOODS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Revised Ration Order 13 is amended in the following respects:

1. Section 26.1 (a) (1) is amended by inserting before the colon the words ", or a member of his 'family unit'".

2. Section 26.2 (b) is amended by substituting for the words "fifty (50)" the words "one hundred (100)" and by substituting for the words "one hundred (100)" the words "two hundred (200)".

3. Section 26.3 (b) is amended by substituting for the words "as a 'processor' or make reports" in the first sentence, the words ", or make reports, as a 'processor'"; and by adding at the end thereof the following:

If he transfers home processed foods produced with sugar obtained under § 1407.71a of Revised Ration Order 3, he must, at the same time, report in writing to his board the kinds and amounts of such foods transferred by him for points during the preceding month.

4. The first two sentences of section 26.4a (a) are deleted and the following is substituted therefor:

A person who produces frozen foods in a place other than a "kitchen" may consume the foods so produced and may let the members of his family unit and

*Copies may be obtained from the Office of Price Administration.

[1] 9 F.R. 3, 104, 574, 695, 765, 848, 1727, 1817, 1908, 2233, 2234, 2240, 2567.

others who eat at his table or on a farm he operates consume them without giving up points only if he produces them primarily for consumption in his household or on a farm he operates. A person is considered to produce frozen foods for the purposes of this section only if he, or a member of his family unit, supplies all the ingredients, prepares the food for freezing and subjects that food to the freezing operation. In such case he and the members of his family unit may give (but not sell) such foods to any other person without receiving points, but no more than one hundred (100) quarts or two hundred (200) pounds of such foods per member may be given away point free by the family unit in any calendar year.

5. Section 26.5 (a) is amended by inserting before the period at the end of the first sentence the words ", but only if that processor regularly produced processed foods in the past for consumers from ingredients wholly supplied by them".

6. The headnote of section 26.5 (b) is amended to read as follows:

(b) *He may consume such foods or give them away.*

7. The second sentence of section 26.5 (b) is amended to read as follows: "He and the members of his family unit may give (but not sell) such foods to any other person without receiving points."

8. Section 26.5 (c) is amended to read as follows:

(c) *He may sell only for points, and must surrender points he gets to the board.* He may not sell any of such foods unless he gets points equal to the point value of the foods sold. Such foods are not home processed foods and they may be sold only at their regular point value, as fixed in a supplement to this order, rather than at the point value of home processed foods. For this purpose, he need not register or make reports but must keep a record of any sale he makes, showing the amount and date of the sale, and the name and address of the person to whom the sale is made. If he makes any sales during any month, he must give up the points received for that sale to his board on or before the tenth day of the next month.

9. Section 26.6 is amended to read as follows:

SEC. 26.6. *Consumers may acquire and use processed foods they produce in commercial scale processing facilities.* (a) A member of a group of persons which produces processed foods in commercial scale processing facilities primarily for consumption in their households or on farms they operate, may acquire his share of the processed foods so produced point free only if:

(1) The facilities used have not been operated commercially since January 1, 1943, or are not customarily operated commercially during the periods when the processing will be done by the group; and

(2) He, or a member of his family unit, takes an active part in the processing of such foods, or grew the fruits or vegetables being processed.

(b) Any member of a group which wishes so to produce processed foods may make application to his board in writing, on behalf of the group, stating:

(1) The name and address of each member of the group;

(2) The facts which bring the group under paragraph (a);

(3) The total amount of processed foods to be produced; and

(4) The disposition to be made of the foods produced.

(c) If the board finds that the group and its members meet all the requirements of paragraph (a) of this section, it shall approve the application. If the facilities to be used were operated commercially after January 1, 1943, but are no longer so operated, the board may still approve the application if it finds that commercial operations were not ended solely or partly for the purpose of enabling the members of the group to produce processed foods there for their own use.

(d) If the board approves the application, each member of the group covered by the application may acquire his share of the processed foods so produced point free, and may consume it and let the members of his family unit and others who eat at his table or on a farm he operates consume it without giving up points.

(e) Not more than one hundred (100) quarts of such processed foods per member may be acquired point free by or for any family unit under this section in any calendar year unless the board finds:

(1) That the use of the facilities is supervised or sponsored by a federal, state or local government or government agency; or

(2) That the facilities are part of a bona fide community processing project which is open for use by all members of the community.

(f) Any person who acquires processed foods under this section without giving up points may give (but not sell), his share to any other person, but not more than one hundred (100) quarts of such foods per member may be given away point free by a family unit in any calendar year.

(g) Processed foods produced pursuant to this section are not home processed foods. A person who sells or transfers any such foods except for the amount he is permitted to give away point free by paragraph (f), is considered a processor as to that part. He must register and file the reports required by section 3.2 of this order. He may make such transfers only in exchange for points equal to the regular point value of the processed foods transferred, as fixed in a supplement to this order, rather than at the point value of home processed foods.

10. Section 26.8 is amended to read as follows:

SEC. 26.8 *Institutional users (other than Group I institutional users) may use and transfer processed foods they produce as provided in General Ration Order 5.* (a) This article does not apply to the production of processed foods for use in, or to the use of processed foods in, "institutional user establishments" other than Group I institutional user establishments. The production, use, and transfer by such "institutional users" of home processed foods and of other processed foods they produce, are governed by General Ration Order 5.

This amendment shall become effective March 23, 1944.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005; and Food Directive 5, 8 F. R. 2251)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3845; Filed, March 18, 1944; 11:33 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 114]

FATS AND OILS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

The first sentence of section 7.11 (a) is amended to read as follows:

An industrial consumer who needs rationed fats or oils may apply, in writing, to the Fats and Oils Section, Food Distribution Administration, Washington, D. C., on a form to be designated by Food Distribution Administration, for permission to acquire and use them.

This amendment shall become effective March 23, 1944.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507, and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. 1-M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3846; Filed, March 18, 1944; 11:40 a. m.]

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[1] 8 F.R. 13123, 13334, 13339, 14339, 14823, 14763, 14845, 15253, 15454, 15524, 16160, 16161, 16260, 16263, 16424, 16527, 16533, 16595, 16783, 16787, 16855, 17328; 9 F.R. 104, 108, 220, 403, 677, 695, 849, 1054, 1532, 1531, 1723, 1818, 1870.

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS*

[RO 16,[1] Amdt. 115]

SLAUGHTER OF SWINE

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 3.2 (a) (1) is amended by inserting before the semicolon at the end thereof, the words ", or a primary distributor who slaughters swine without a permit under the provisions of § 1410.15 (b) (2) of Food Distribution Order No. 75".

This amendment shall become effective March 23, 1944.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. 1–M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44–3847; Filed, March 18, 1944; 11:39 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 116]

PRE-PACKAGED CHEESE

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

The definition of "Pre-packaged cheese" in section 24.1 is deleted, and the following definition substituted therefor:

"Pre-packaged cheese item" means "rationed cheese" in an original package of a primary distributor or wholesaler. If one such package is contained within another, it means the smaller of such packages. (For example, a cardboard package containing several small individually wrapped pieces of cheese is not a single "pre-packaged cheese item". Rather, each individually wrapped piece is a separate "pre-packaged cheese item".)

This amendment shall become effective March 23, 1944.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; and Supp. Dir. 1–M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44–3848; Filed, March 18, 1944; 11:39 a. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 117]

MEAT

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 16 is amended in the following respects:

1. The seventh sentence of section 1.1 (a) is amended to read as follows:

Meat does not include rendering fats and bones (produced in disassembling a carcass, or in cutting a carcass or primal cut into smaller cuts, or in boning a carcass or cut) and lean trimmings commingled with these rendering fats and bones, if these parts of the carcass are acquired by a person to be used by him for animal feed, for rendering into inedible products or for other inedible purposes, or by a primary distributor to be used by him for rendering into rationed fats or oils, or for transfer to such a person for one of these purposes; however, rendering fats do not include fat backs, fat back pork, clear plates and jowls (including jowl squares).

2. The sixth sentence of the definition of "meat" in section 24.1 (a) is amended to read as follows:

Meat does not include rendering fats and bones (produced in disassembling a carcass, or in cutting a carcass or primal cut into smaller cuts, or in boning a carcass or cut) and lean trimmings commingled with these rendering fats and bones, if these parts of the carcass are acquired by a person to be used by him for animal feed, for rendering into inedible products or for other inedible purposes, or by a primary distributor to be used by him for rendering into rationed fats or oils, or for transfer to such a person for one of these purposes; however, rendering fats do not include fat backs, fat back pork, clear plates and jowls (including jowl squares).

This amendment shall become effective March 23, 1944.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Dir. 1, 7 F.R. 562; and Supp. Dir. 1–M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44–3849; Filed, March 18, 1944; 11:39 a. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[RMPR 487,[2] Amdt. 1]

WHEAT

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 487 is amended in the following respects:

1. Section 3 (16) is amended to read as follows:

(16) "Area A" includes the District of Columbia of the United States and the following states: Kansas, Oklahoma, Texas, South Dakota, North Dakota, Montana, Kentucky, Wyoming, Idaho, Utah, Nevada, Washington (except Whatcom, Clallam, Jefferson, Kitsap, Mason, Grays Harbor, Pacific, Wahkiakum counties), Tennessee (except the area east of the western boundaries of Campbell, Anderson, Roane, Rhea and Hamilton Counties), Oregon (except west of the western boundaries of Wasco, Jefferson, and Lake Counties and west of the eastern boundary of Deschutes County), California, Minnesota, Iowa, Missouri, Nebraska, Arkansas, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New York, Maryland (except the Eastern Shore south of a line drawn east and west through Chesapeake City), Colorado east of the western boundaries of Larimer, Boulder, Gilpin, Clear Creek, Park, Fremont, Custer, Huerfano and Las Animas counties and the counties of Quay, Debaca, Curry, Roosevelt, Chaves, Lea, Eddy, Guadalupe, Lincoln and Otero in New Mexico.

2. Section 3 (17) is amended to read as follows:

(17) "Missouri River Markets" includes Kansas City, Missouri; Kansas City, Kansas; Atchison, Kansas; Leavenworth, Kansas; St. Joseph, Missouri; Omaha, Nebraska; Council Bluffs, Iowa; Sioux City, Iowa.

3. The formula price of "$1.90½" for Atlanta, Georgia, in the left hand column of prices in Table I in Appendix A is amended to read "$1.88¼".

4. Paragraph (b) (5) is added to Appendix A 3 to read as follows:

(5) In Oregon west of the western boundaries of Wasco, Jefferson, and Lake counties and west of the eastern boundary of Deschutes county and in Washington in the counties of Whatcom, Clallam, Kitsap, Mason, Jefferson, Grays Harbor, Pacific and Wahkiakum the formula price at Portland, Oregon, or Seattle, Washington, less 15½ cents per bushel and plus the lowest flat carload rail transportation

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 13128, 13394, 13980, 14399, 14523, 14764, 14845, 15253, 15454, 15524, 16160, 16161, 16260, 16263, 16424, 16527, 16606, 16695, 16739, 16797, 16855, 17326; 9 F.R. 104, 106, 220, 403, 677, 695, 849, 1054, 1581, 1532, 1728, 1818, 1909, 2235, 2240, 2568, 2406.

[2] 9 F.R. 305.

charges from Spokane, Washington, to the interior rail point in question.

5. Appendix A 5 is amended to read as follows:

5. *Formula prices for mixed wheat.* The formula price per bushel, bulk, for mixed wheat at any terminal city or interior point shall be the appropriate maximum price for the class and grade of wheat predominating in the mixture at such terminal city or interior point adjusted for the moisture and protein content in the mixture in accordance with the tables in Appendix A less (unless the mixture consists wholly of hard red winter and hard red spring wheats or wholly of soft red winter and white wheats or is of the subclasses of Amber Mixed Durum or Mixed Durum) 2 cents per bushel: *Provided,* That the formula price per bushel for mixed wheat containing in excess of 15% red durum shall be the appropriate maximum price for red durum.

6. Appendix A 6 is amended to read as follows:

6. *Formula prices for mixed grain.* The formula price per bushel, bulk, for mixed grain (as defined in the Official Grain Standards of the United States) containing wheat at any point shall be determined by multiplying the percentage of each such grain in the mixture by the appropriate maximum price thereof at such point, or, if there is no such maximum price for the particular grain by the reasonable value thereof at such point, and adding the results and deducting 5 cents per bushel.

This amendment shall become effective March 24, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong., E.O. 9250, 7 F.R. 7871, E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944

CHESTER BOWLES,
Administrator.

Approved: March 10, 1944

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 44-3855; Filed, March 18, 1944; 11:41 a. m.]

PART 1340—FUEL

[MPR 120,[1] Amdt. 93]

BITUMINOUS COAL DELIVERED FROM MINE OR PREPARATION PLANT

A statement of the considerations involved in the issuance of this amendment issued simultaneously herewith has been filed with the Division of Federal Register.

Maximum Price Regulation No. 120 is amended in the following respects:

1. Section 1340.219 (b) (1) is amended to read as follows:

(1) *Maximum prices for coals produced at mines with the following designated price classifications.* These prices are for shipment to all destinations, by all methods of transportation, except by truck or wagon, and for all uses, except as otherwise specifically provided in this paragraph (b).

(i) Price classifications and Size Group Numbers 1 to 10, inclusive, and 15 to 23, inclusive, referred to below are the price classifications as set forth in the Schedule of Effective Minimum Prices as established by the Bituminous Coal Division and as in effect at midnight, August 23, 1943, for shipments to all destinations other than the Great Lakes and for maximum price purposes are for shipments to all destinations.

PRICES AND SIZE GROUP NUMBERS

Price classification	1 Lump and block (bottom size larger than 5")	2 Lump and double-screened egg coals (4" and 5" lump and 6" x 4")	3 Lump and double-screened egg coals (6" lump and 6" x 4")	4 Lump and double-screened egg coals (2" lump and 6" x 3")	5 Double-screened egg coals (6" x 3")	Double-screened egg coals (6" x 2" and 5" x 3")	Double-screened egg coals (6" x 2" and 4" x 2")	8 Double-screened stove coals (3" x 2" and 3" x 1¼")	9 Double-screened nut coals (top size larger than 1¼" but not exceeding 2")	10 Double-screened Stoker coals (top size not exceeding 1¼")	15, 16, 17 Mine run (screened, cleaned, and resultants larger than 2¾" x 0)	18 Screenings, (as mined and modified)	19 Screenings (larger than 2" x 0, but not exceeding 2¾" x 0)	20, 21 Screenings (larger than ⅜" x 0, but not exceeding 2" x 0)	22 Screenings (¾" x 0 and smaller)	23 Low grs to reject
A	435	435	435	415	395	370	329	323	321	423	325	323	323	320	295	275
B	435	410	410	390	370	345	329	323	315	370	325	323	323	320	290	260
C	415	395	395	380	370	345	329	323	315	370	325	323	323	320	290	260
D	405	395	395	380	370	345	329	323	315	370	325	323	323	320	290	260
E	395	385	375	370	370	340	329	315	319	370	325	323	323	320	290	245
F	385	380	370	370	355	340	329	315	315	315	325	323	323	320	290	215
G	385	375	360	360	345	335	315	310	310	315	325	323	323	320	290	———
H	380	375	360	360	345	335	315	310	310	315	325	323	323	320	290	———
J	375	370	360	360	345	335	315	310	310	310	325	323	323	320	285	———
K	365	360	350	350	345	335	310	310	310	310	325	323	323	320	285	———
L	350	350	345	345	330	330	310	310	———	310	325	323	323	320	280	———
M	350	350	345	345	330	315	310	310	———	310	325	323	323	320	280	———
N	350	350	345	345	330	315	310	———	———	———	325	323	323	320	280	———
O	345	340	325	325	310	299	295	———	———	———	325	323	323	320	270	———
P	330	325	320	320	295	299	295	———	———	———	325	323	323	320	265	———
Q	330	325	320	320	———	———	———	———	———	———	325	323	323	320	265	———
R	330	325	320	320	———	———	———	———	———	———	———	———	———	———	———	———
S	330	325	320	320	———	———	———	———	———	———	———	———	———	———	———	———

Maximum prices for coals produced at all mines in Subdistrict No. 6 (Southern Appalachian) shall be the above prices plus 15 cents per net ton.

Exceptions: (Letters appearing on this table, instead of prices, designate price classifications; in these instances, the maximum prices are the same as those set forth in this sub-paragraph (1) (i).)

Mine index	Producers	Mine name	Subdist.	Prices, classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	15, 16, 17	18	19	20, 21	22	23
8	Allburn Collieries Co	Allburn[2]	8	335	330	330	240	340	340	340	335	335	G	335	330	330	330	———	———
13	Alma Fuel Co	Alma	8	O	O	O	O	L	L	K	G	E	G	B	C	C	311	———	———
492	Anchor Coal Co	Anchor #5	4	L	L	L	L	F	F	E	E	C	E	320	E	E	335	———	———
37	Bell Coal Co	Bell	6	445	445	370	335	495	469	359	345	315	335	315	310	315	310	295	———

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 1450, 15256, 15455, 15456, 16280, 16419, 16738, 16998; 9 F.R. 390, 573, 693, 1181, 1395, 1454, 1721, 1805, 2003, 2127, 2237, 2407.

Mine index	Producers	Mine name	Sub-dist.	Prices, classifications and size group Nos.															
				1	2	3	4	5	6	7	8	9	10	15, 16, 17	18	19	20, 21	22	23
481	Benedict Coal Corp	Virglow	7	450	450	450	425	405	380	375	360	330	395	310	305	295	290	205	275
405	Black Band Coal Co	Reynolds	4	415	410	400	400	360	360	345	335	335	380	340	335	325	320	-----	-----
4	Blue Bird Mining Co	Blue Bird	3	O	O	O	O	M	M	L	J	G	J	310	295	290	290	290	-----
74	Buffalo Coal Co	Buffalo	6	345	345	335	335	335	330	325	310	305	355	310	280	275	295	-----	-----
142 & 419	Cambria Coal Co	Cross Mountain & Royal	6	390	385	370	370	380	380	355	350	340	390	345	340	325	325	290	-----
590	Central Elkhorn Coal Co	#3	1	F	F	F	F	D	355	350	350	350	380	350	350	350	350	350	-----
104, 105, 106	Christian Colliery Co	#1, 2, 3	4	365	365	360	360	360	350	325	320	O	385	320	320	320	315	-----	-----
638	Clover Darby Coal Co	Jubilee	2	475	475	475	455	435	410	390	375	345	445	345	335	330	330	290	-----
123	Clover Splint Coal Co	Clover Splint	2	A	A	A	A	A	A	A	A	A	O	O	330	F	F	K	-----
413	Coalburg-Kanawha Mng. Co.	Belmont #8	4	420	415	405	405	390	380	355	340	340	390	345	340	330	325	-----	-----
5574	Coal Processing Corp	Dixiana	7	390	390	J	J	H	H	330	D	O	390	A	B	B	B	B	-----
826, 3612	Columbia Coal & Mng. Co	Tom's Creek, Turner Branch.	1	440	430	430	415	405	375	345	340	335	405	340	330	320	315	275	-----
124	Columbus Mining Co	#3	3	385	385	375	375	370	360	335	330	325	370	350	345	335	330	-----	-----
126	Columbus Mining Co	#5	3	360	360	355	355	330	325	315	J	305	350	315	310	300	295	-----	-----
127	Columbus Mining Co	#6	3	385	385	375	375	370	360	335	330	325	370	335	330	325	325	-----	-----
921	Crystal Block Mining Co	#2	8	O	O	O	O	L	L	K	G	E	G	320	E	E	E	-----	-----
753	Dalton, A. J	Low Ash	1	K	K	K	K	H	H	G	E	C	310	G	G	G	-----	-----	
151	Darb Fork Coal Co	Darb Fork	3	K	K	K	K	J	J	H	315	315	G	315	300	295	295	-----	-----
439	Dixport Coal Co	Star Slope	4	450	440	430	425	400	390	365	360	355	425	360	350	345	345	300	-----
5210	Draper Mining Co	Draper	5	R	R	R	R	L	L	K	H	F	H	306	H	H	H	-----	-----
273	Elcomb Coal Co	Elcomb	2	P	P	P	P	N	N	M	H	F	F	E	H	290	290	250	-----
187, 725	Elk Creek Coal Co	Elk Creek #1 and #2	5	345	340	335	335	335	335	325	325	320	365	320	320	320	320	260	-----
285	Elkhorn Coal Co	King Kona #2	1	410	405	390	390	375	365	340	335	330	400	335	330	330	330	235	-----
106	Elkhorn Coal Corp	#28	1	F	F	F	F	F	355	330	330	330	O	345	345	330	330	270	-----
354	Etna Coal & Coke Co	Nurex	6	460	460	460	440	420	395	375	360	330	395	330	310	305	305	-----	-----
696	Fisher Coal Co	Fisher	6	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	350	-----	-----	-----	-----	-----
703	Fleming, Robert, & Co	Fleming	7	360	360	355	355	355	345	330	330	325	380	325	315	305	300	-----	-----
207	Fourseam Coal Corp	Fourseam	3	395	375	380	380	375	365	340	335	330	375	330	315	310	310	270	-----
404	Francis Rex Coal Co	Rex #2	6	445	405	405	405	405	355	340	330	330	385	310	280	290	290	220	-----
213	Gatliff Coal Co	Gatliff	6	435	425	415	410	410	385	350	345	340	410	340	335	325	320	270	-----
5805	Gatliff Coal Co	Gatliff #4	6	475	475	475	455	435	410	390	375	345	410	345	325	320	320	-----	-----
80	Gibson Fuel Co	Calvin	7	M	M	M	M	K	K	J	G	E	G	310	305	300	290	290	-----
364	Gibson Fuel Co	Pardee	7	425	425	C	390	380	365	A	340	A	C	A	305	305	305	-----	-----
219	Glen Alum Coal Co	Glen Alum	8	370	370	355	355	350	350	335	325	325	355	330	325	320	320	-----	-----
5629	Hager Hill Coal Co	Hager Hill	1	425	415	415	400	390	360	330	325	320	390	325	315	305	300	260	-----
233	Harlan Central Coal Co	Harlan Central	2	360	360	355	355	355	345	340	340	340	380	325	320	320	320	280	-----
235	Harold Fuel Co	Harold	1	H	H	H	H	H	345	G	E	C	E	315	310	305	305	-----	-----
45	Hatcher, James, Land Co	Big Shoal	1	K	K	K	K	H	H	E	C	G	C	311	306	296	291	260	-----
370	Hatfield-Campbell Creek Coal Co.	Point Lick #4	4	400	390	380	380	355	345	335	335	325	385	335	330	325	325	280	-----
111	Hi-Hat Elkhorn Mining Co	Hi-Hat	1	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	350	-----	-----	-----	-----	-----
23	Hutchinson Coal Co	Argyle	5	350	350	0	0	325	325	325	G	E	G	C	320	320	320	-----	-----
252	Imperial Colliery Co	#2	4	385	385	380	380	390	375	345	340	335	405	340	335	335	335	-----	-----
169	Jeanne Francis Coal Co	Jeanne Francis	3	M	M	M	M	N	H	G	F	D	F	C	K	K	300	-----	-----
5529	Lyburn Mines, Inc	Lyburn #1	5	Q	Q	Q	Q	L	L	K	F	D	F	307	D	D	D	-----	-----
331, 332	Milburn By-Products Coal Co	Milburn #1 and #2	4	L	L	L	L	F	F	E	E	C	E	320	320	320	315	-----	-----
298	New Long Ridge Coal Co	Long Ridge	6	345	340	335	335	335	330	325	310	305	385	335	280	275	270	-----	-----
435, 3704	New Southland Coal Corp	# 1 and #2	6	435	435	420	420	420	400	370	365	360	420	360	325	315	315	-----	-----
25	North-East Coal Co	Auxier #7	1	450	450	450	430	410	385	365	350	A	420	320	315	315	315	295	-----
459	North-East Coal Co	Thealka #3	1	420	410	410	395	385	355	325	320	C	385	320	310	305	305	255	-----
353	Norton Coal Co	#11	7	O	O	O	O	K	K	J	F	C	E	305	G	G	300	-----	-----
511	O & W Coal Company	Zenith	6	460	460	450	450	445	435	410	405	420	470	400	365	360	355	-----	-----
437	Peerless Darby Coal Co	Darby	2	430	420	420	405	395	365	335	330	325	430	330	320	315	315	-----	-----
605[1]	Pewee Coal Co	Pewee	6	485	485	485	465	445	420	400	385	355	420	355	345	335	330	290	-----
7051[1]	Pewee Coal Co	Red Ash	6	445	435	425	420	420	395	360	355	345	395	350	335	330	330	280	-----
378	Premier-Jellico Coal Corp	Premier	6	355	350	345	345	345	340	330	-----	-----	-----	320	320	310	305	-----	-----
380	Puritan Coal Corp	Puritan #1	8	Q	330	325	325	315	315	315	315	315	L	300	295	295	295	-----	-----
186, 239	Raleigh-Wyoming Mining Co	Edwight #1, Hazy #3	4	380	380	380	380	380	375	345	340	335	E	345	345	345	345	-----	-----
389	Red Ash Smokeless Coal Co	Red Ash	8	H	H	385	H	D	D	C	A	A	A	345	310	305	305	280	-----
394	Red Jacket Coal Corporation	#6	8	O	O	O	O	L	L	K	G	E	G	330	C	325	325	G	-----
408	Ridgeway-Darby Coal Co	Ridgeway	2	350	350	335	335	K	K	J	F	D	380	315	310	305	305	260	-----
446	Ruth Elkhorn Coals, Inc	Steinman	7	K	K	K	K	E	E	D	320	320	E	320	320	320	320	-----	-----
36	Sandlick Coal Co	Belcraft	3	M	M	M	M	L	L	K	J	G	J	310	295	290	290	250	-----
425	Scuddy Mining Co	Scuddy	3	365	365	360	360	360	350	350	350	D	F	345	340	330	325	295	-----
265	Southern Mining Co	Insull	2	J	J	J	J	H	H	G	F	D	D	315	310	305	305	-----	-----
297	Splash Dam Smokeless Coal Corporation.	Lonesome Branch	7	M	M	M	M	H	H	G	E	C	E	315	305	300	300	-----	-----
246	Standard Banner Coal Corporation.	Honey Creek	7	365	365	360	360	355	355	340	340	335	385	325	320	320	320	-----	-----
818	Stone Coal, Incorporated	Laurel	4	M	M	M	M	L	L	K	H	F	H	315	310	305	305	305	-----
22	Tennessee-Jellico Coal Co	Anthras	6	425	425	405	400	400	390	355	350	345	415	345	340	340	340	280	280
540	Turner Fuel Co	Turner Darby	2	C	C	C	390	D	D	D	D	B	A	A	305	F	F	-----	-----
483	War Eagle Coals, Inc	War Eagle	B	390	385	370	370	365	365	350	340	340	385	345	340	335	335	-----	-----

[1] Each of these max. prices for mine index Nos. 7051 and 605 shall be reduced by 50 cents 180 days after Feb. 18, 1944.

(ii) *Maximum price in cents per net ton for all railroad fuel uses.* (a) The maximum prices for coals in Size Groups 1 to 10, inclusive, for all railroad fuel uses shall be the maximum price for the grade and size shipped as set forth in subparagraph (1) (i) above, or $3.10 per ton, whichever is higher; and the maximum prices for coals in Size Groups 15 to 23, inclusive, for all railroad fuel uses shall be the maximum prices for the grade and size shipped as set forth in subparagraph (1) (i) above.

(b) Mines within Freight Origin Groups 61, 63, 64, 123, 124, 128, 150 may ship coal to the C & O Railway Company, screened to order, for use for all on-line railroad fuel uses at the maximum price for run of mine coals: *Provided,* That within a period of time, previously specified in a single purchase order or contract, but not in excess of 12 months, the shipments of any size of coal which will pass through a 2¾" round hole screen shall not exceed the amount specified in the single purchase order or contract which shall be based upon the previously determined screening percentages of the mine or mines involved. The Solid Fuels Branch of the Office of Price Administration shall be notified of the screening percentage determination in effect as of March 24, 1944, for all mines and as redetermined or established from time to time.

The maximum price for the excess coal over the determined percentage passing through a 2¾" round hole screen shall be the maximum price for the actual size and grade shipped.

Purchase orders or contracts shall apply to a specific producer and to one mine

in order that percentages of plus and minus 2¾ inch coal supplied on the order or contract will be related to the percentages of such sizes actually being produced. *Provided, however,* That any producer with two or more mines may fulfill a single purchase order or contract from any or all of his mines where the screening percentages are the same and where the mines maximum prices are the same or the purchase price is based on the mine with the lowest maximum price.

Each producer or his agent and each distributor selling coal at prices computed under this subparagraph shall state on all his invoices that the price charged has been computed under § 1340.219 (b) (1) (ii) of Maximum Price Regulation No. 120.

(iii) Specific description of size group numbers referred to in subparagraph (1) (i) of this paragraph (b).

Size group numbers:	*Description*
1	All single-screened block, bottom size larger than 5".
2	All single-screened lump, bottom size larger than 3", but not exceeding 5".
	All double-screened egg coals, top size larger than 6" and bottom size larger than 3", but not exceeding 4".
	All double-screened coals, top size 5" and larger, and bottom size larger than 4".
3	All single-screened lump, bottom size larger than 2", but not exceeding 3".
	All double-screened egg coals, top size larger than 3" but not exceeding 6" and bottom size larger than 3" but not exceeding 4".
4	All single-screened lump, bottom size larger than ¾", but not exceeding 2".
	All double-screened egg coals, top size larger than 6", and bottom size larger than 2" but not exceeding 3".
5	All double-screened egg coals, top size larger than 5", but not exceeding 6", and bottom size larger than 2", but not exceeding 3", and top size larger than 6", and bottom size 2" and smaller.
6	All double-screened egg coals, top size larger than 5", but not exceeding 6", and bottom size 2" and smaller, and top size 3" and larger but not exceeding 5", and bottom size larger than 2", but not exceeding 3".
7	All double-screened egg coals, top size larger than 3" but not exceeding 5" and bottom size 2" and smaller.
8	All double-screened stove coals, top size larger than 2", but not exceeding 3", and bottom size 2" and smaller.
9	All double-screened nut coals, top size larger than 1¼", but not exceeding 2", and bottom size smaller than 2".
10	All double-screened stoker coals, top size not exceeding 1¼", and bottom size less than 1¼".
15	Screen run of mine, bottom size ¾" or smaller.
16	Straight run of mine.
	Altered run of mine (straight run of mine from which any intermediate size has been removed, but no coal smaller than ⅜" shall be removed).
	Resultant run of mine larger than 6" x 0.
	Altered resultant run of mine (straight resultant run of mine larger than 6" x 0 from which any intermediate size has been removed, but no coal smaller than ⅜" shall be removed).
17	Straight resultant run of mine (larger than 2¾" x 0, but not exceeding 6" x 0).
	Altered resultant run of mine (straight resultant run of mine larger than 2¾" x 0, but not exceeding 6" x 0 from which any intermediate size has been removed, but no coal smaller than ⅜" shall be removed).
18	Dedusted screenings, top size 2" and smaller and bottom size larger than 100 mesh, but not exceeding 10 mesh.
	Modified screenings (top size not exceeding 2" total consist containing not less than 15% ⅜" x 0 screenings).
19	Screenings larger than 2" x 0, but not exceeding 2¾" x 0.
20	Screenings larger than ¾" x 0, but not exceeding 2" x 0.
21	Screenings larger than ⅜" x 0, but not exceeding ¾" x 0.
	Altered screenings (top size not exceeding 2¾" from which all of the 1" to 1½" top and ½" to ⅜" bottom coal has been removed).
22	Screenings ⅜" x 0 and smaller.
23	Low grade reject; separated at the tipple or loaded separately in the mine.

2. Section 1340.219 (b) (3) is amended to read as follows:

(3) *Maximum prices in cents per net ton for Cannel coal.* The maximum prices for rail, truck or wagon shipments to all destinations shall be as follows:

Cannel coal—All subdistricts

Lump	435
Egg	385
Chips	335
Machine cuttings	235

3. Section 1340.219 (b) (4) is amended to read as follows:

(4) Orders of adjustment issued prior to March 24, 1944, and adjustments computed on OPA Form No. 653–638 under § 1340.207 (e) (added by Amendment No. 74 to this regulation) shall be void as of March 24, 1944, insofar as maximum prices of District No. 8 mines for rail shipments and shipments of coals for all railroad locomotive fuel uses are affected by such orders and adjustments.

4. In § 1340.219 (b) subparagraphs (5), (6), (7), (8), (9) and (10) are redesignated subparagraphs (4), (5), (6), (7), (8) and (9), respectively.

This amendment shall become effective March 24, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3869; Filed, March 18, 1944; 4:47 a. m.]

PART 1358—TOBACCO

[MPR 260, as Amended,[1] Amdt. 7]

CIGARS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 260, as amended, is amended in the following respects:

1. Section 1358.102 (e) (3) is amended to read as follows:

(3) After receipt of the application the Office of Price Administration will, by order, authorize a maximum price for which the manufacturer and every wholesaler and retailer may sell, and any purchaser may buy the new brand or size of domestic cigars. The provisions of this subparagraph shall apply to all sales for which manufacturers are required to establish maximum prices under this paragraph, except sales for which maximum prices have been authorized prior to March 18, 1944.

2. Section 1358.102a (e) (3) is amended to read as follows:

(3) After receipt of the application the Office of Price Administration will, by order, authorize a maximum price for which the importer and every wholesaler and retailer may sell, and any purchaser may buy the new brand or size of domestic cigars. The provisions of this subparagraph shall apply to all sales for which manufacturers are required to establish maximum prices under this paragraph, except sales for which maximum prices have been authorized prior to March 18, 1944.

This amendment shall become effective March 18, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3870; Filed, March 18, 1944; 4:48 p. m.]

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 8397, 10255, 10475, 11113; 8 F.R. 1974, 2203, 4476.

PART 1364—FRESH CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 418,[1] Amdt. 27]

FRESH FISH AND SEAFOOD

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 418 is amended in the following respects:

1. Schedule No. 64 is added to Table A in section 20 to read as follows:

TABLE A—MAXIMUM PRICES FOR PRODUCERS OF FRESH FISH AND SEAFOOD

Schedule No.	Name	Item No.	Style of dressing	Size	Price per pound January through December, Bulk ex-vessel
64	Ocean pout (Conger eel or Eel pout) (Zoarces anguillaris) (Leptocephalus conger)	1	Round	All sizes	$0.03

2. Schedule No. 64 is added to Table B in section 20 to read as follows:

TABLE B—MAXIMUM PRICES FOR PRIMARY FISH SHIPPER SALES OF FRESH FISH AND SEAFOOD

Schedule No.	Name	Item No.	Style of dressing	Size	Price per pound January through December
64	Ocean pout (Conger eel or Eel pout) (Zoarces anguillaris). (Leptocephalus conger).	1	Round	All sizes	$0.04
		2	Fillets	All sizes	.18

3. Schedule No. 64 is added to Table C in section 20 to read as follows:

TABLE C—MAXIMUM PRICES FOR RETAILER-OWNED COOPERATIVE SALES AND SALES BY WHOLESALERS OTHER THAN PRIMARY FISH SHIPPER WHOLESALERS TO OTHER WHOLESALERS OF FRESH FISH AND SEAFOOD

Schedule No.	Name	Item No.	Style of dressing	Size	Price per pound January through December
64	Ocean pout (Conger eel or Eel pout) (Zoarces anguillaris). (Leptocephalus conger).	1	Round	All sizes	$0.05
		2	Fillets	All sizes	.19½

4. Schedule No. 64 is added to Table D in section 20 to read as follows:

TABLE D—MAXIMUM PRICES FOR CASH AND CARRY SALES OF FRESH FISH AND SEAFOOD

Schedule No.	Name	Item No.	Style of dressing	Size	Price per pound January through December
64	Ocean pout (Conger eel or Eel pout) (Zoarces anguillaris) (Leptocephalus conger).	1	Round	All sizes	$0.06
		2	Fillets	All sizes	.20½

5. Schedule No. 64 is added to Table E in section 20 to read as follows:

TABLE E—MAXIMUM PRICES FOR SERVICE AND DELIVERY SALES OF FRESH FISH AND SEAFOOD

Schedule No.	Name	Item No.	Style of dressing	Size	Price per pound January through December
64	Ocean pout (Conger eel or Eel pout) (Zoarces anguillaris). (Leptocephalus conger).	1	Round	All sizes	$0.08½
		2	Fillets	All sizes	.23

This amendment shall become effective March 18, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3871; Filed, March 18, 1944; 4:47 p. m.]

[1] 8 F.R. 9366, 10086, 10513, 10939, 11734, 11687, 12468, 12233, 12688, 13297, 13182, 13302, 14049, 14475, 14616, 15257, 15430, 16131, 16293, 16296; 9 F.R. 90, 1325, 1575, 2133, 2408, 2691.

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 285,[1] Amdt. 7]

IMPORTED FRESH BANANAS, SALES EXCEPT AT RETAIL

A statement of the considerations involved in the issuance of this amendment, has been issued and filed with the Division of the Federal Register.*

Maximum Price Regulation No. 285 is amended in the following respects:

1. A new, undesignated paragraph is added to § 1351.1254 (b) to read as follows:

The wholesaler, when selling bananas imported from Mexico, shall state, on his invoice or other written evidence of the sale, the state of production in Mexico in which the bananas were grown.

2. A new paragraph (c) is added to § 1351.1254 to read as follows:

(c) (1) If an importer sells bananas which have been delivered to him by rail or truck from Mexico, and the importer has failed to meet the notification requirements set forth in paragraph (a) of this section, the maximum price per cwt., f. o. b. port of entry for the bananas so sold shall be $3.25.

(i) If any importer imports bananas from Mexico, he shall make the following disposition of the copies of the Mexican "Certificate of Origin" ("Certificado De Exportacion"—issued under the authority contained in the Order of the Department of Finance & Public Credit published in the "Diario Oficiel" on February 2, 1943) which are furnished him by the Mexican Government, or which he must make himself, if necessary.

(*a*) One copy shall be retained by the importer in his possession for as long as the Emergency Price Control Act of 1942, as amended, remains in effect.

(*b*) Another copy shall be furnished by the importer to each of his purchasers, at the time of sale, which copy the purchaser shall retain in his possession for as long as the Emergency Price Control Act of 1942, as amended, remains in effect.

If, for any reason, the importer fails to furnish his purchaser with a copy, as required by this subdivision (*b*), the maximum price, per cwt., f. o. b. port of entry, for the bananas so sold shall be $3.25.

3. In § 1351.1254 (a) the text is amended by adding the words "or to the premises of retail stores or of institutional users", immediately following the words "to another such point".

This amendment shall become effective March 25, 1944.

NOTE: All record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget, in accordance with the Federal Reports Act of 1942.

[1] 8 F.R. 3050, 10659, 16629; 9 F.R. 219, 1121.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 20th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3945; Filed, March 20, 1944; 12:07 p. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 31—UNIFORM SYSTEM OF ACCOUNTS, CLASS A AND CLASS B TELEPHONE COMPANIES

TELEPHONE PLANT RECORD

The Commission on March 14, 1944, effective immediately, amended § 31.2-26 (a) to read as follows:

§ 31.2-26 *Telephone plant continuing property record required.* (a) Not later than January 1, 1937, each company shall begin the preparation of a continuing property record with respect to property of each class represented in the several plant accounts comprised by balance-sheet account 100:1, "Telephone plant in service." Not later than July 1, 1943, each company shall also begin the preparation of a similar record with respect to property of each class represented in the several plant accounts comprised by account 100:3, "Property held for future telephone use," and with respect to property represented in account 103, "Miscellaneous physical property." These records shall be completed not later than June 30, 1945, with respect to property as at December 31, 1936, and with respect to the changes effected therein between the dates of January 1, 1937, and December 31, 1944.

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i), sec. 220 (a), 48 Stat. 1078; 47 U.S.C. 220 (a))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-3803; Filed, March 17, 1944; 2:43 p. m.]

PART 31—UNIFORM SYSTEM OF ACCOUNTS, CLASS A AND CLASS B TELEPHONE COMPANIES

MISCELLANEOUS CREDITS TO SURPLUS AND COLLECTIBLE OPERATING REVENUES

The effective date of amendments to § 31.402, *Miscellaneous credits to surplus,* and § 31.530, *Uncollectible operating revenues—Dr.,* (which were published on page 2792 of the FEDERAL REGISTER for Tuesday, March 14, 1944) should be January 1, 1945.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-3804; Filed, March 17, 1944; 2:43 p. m.]

PART 33—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C TELEPHONE COMPANIES

UNCOLLECTIBLE OPERATING REVENUES

The effective date of the amendment to § 33.3090 *Uncollectible operating revenues—Dr.* (which was published on page 2792 of the FEDERAL REGISTER for Tuesday, March 14, 1944), should be January 1, 1945.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-3805; Filed, March 17, 1944; 2:43 p. m.]

PART 34—UNIFORM SYSTEM OF ACCOUNTS FOR RADIOTELEGRAPH CARRIERS

UNCOLLECTIBLE REVENUES

The effective date of the amendment to § 34.4935 *Uncollectible revenues,* (which was published on page 2792 of the FEDERAL REGISTER for Tuesday, March 14, 1944) should be January 1, 1945.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-3806; Filed, March 17, 1944; 2:43 p. m.]

PART 35—UNIFORM SYSTEM OF ACCOUNTS FOR WIRE-TELEGRAPH AND OCEAN-CABLE CARRIERS

CURRENT LIABILITIES AND UNCOLLECTIBLE REVENUES

The effective date of the amendments to § 35.10-5 *Current liabilities* and § 35.-4935 *Uncollectible revenues* (which were published on page 2793 of the FEDERAL REGISTER for Tuesday, March 14, 1944) should be January 1, 1945.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-3807; Filed, March 17, 1944; 2:43 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[A. O. ODT 11, Revocation]

PART 503—ADMINISTRATION

PROCEDURES AND DELEGATION OF AUTHORITY

Procedures and delegation of authority pursuant to Amendment 1 to General Order ODT 16.

Pursuant to General Order ODT 16, as amended, Administrative Order ODT 11 (8 F.R. 17515) is hereby revoked, effective March 15, 1944.

(E.O. 8989, as amended, 6 F.R. 6725, 8 F.R. 14183; E.O. 9156, 7 F.R. 3349; Gen. Order ODT 16, as amended, 7 F.R. 5194, 8 F.R. 16220, 17001)

Issued at Washington, D. C., this 14th day of March 1944.

L. M. NICOLSON,
Director, Division of Storage, Office of Defense Transportation.

[F. R. Doc. 44-3824; Filed, March 18, 1944; 10:25 a. m.]

[A. O. ODT 21]

PART 503—ADMINISTRATION

SERVICE OF OFFICIAL DOCUMENTS

Pursuant to the Act of May 31, 1941, as amended by the Second War Powers Act, 1942, Executive Orders 8989, as amended, 9156, 9214, and 9234, and War Production Board Directive 21, and in order to provide a uniform procedure for the service of official documents of the Office of Defense Transportation, and to repeal the provisions of other orders in conflict therewith, it is hereby ordered, that:

Sec.
503.410. Service of official documents.
503.411 Applicability.
503.412 Definitions.
503.413 Repeal of conflicting provisions.

AUTHORITY: §§ 503.410 through 503.413 issued under the Act of May 31, 1941, as amended by the Second War Powers Act, 1942, 56 Stat. 176, 50 U. S. Code secs. 631 through 645a; E.O. 8989, 6 F.R. 6725 and 8 F.R. 14183; E.O. 9156, 7 F.R. 3349; E.O. 9214, 7 F.R. 6937; E.O. 9234, 8 F.R. 221; War Production Board Directive 21, 8 F.R. 5834.

§ 503.410 *Service of official documents.* (a) Whenever, under any order or directive of the Office of Defense Transportation, now in effect or hereafter issued, service of an official document issued by the Office of Defense Transportation is required to be made upon any person, service shall be made by one of the following methods:

(1) By mailing a true copy of the official document to the person to be served at the address shown upon the official records of the Office of Defense Transportation, unless such person shall have designated in writing a different address, or, in case no address is so shown or designated, by mailing a true copy to him at his last known address; or

(2) By delivering a true copy of the official document to him in person, if an individual, or, if a corporation, partnership, or other unincorporated association, to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process; or

(3) By publication, whenever specifically authorized by the terms of an order or directive, such publication to be made in the manner specified in the order or directive.

(b) Whenever it shall appear from the official records of the Office of Defense Transportation that a person is represented in a particular matter pending before the Office of Defense Transportation by an agent or attorney, service upon

such person of an official document in such matter may be made by serving the official document upon the agent or attorney in the manner provided in subparagraphs (1) or (2) of paragraph (a) of this § 503.410.

(c) The person serving the official document shall make proof of service by endorsement on or by certificate attached to the file or docket involved, showing the method utilized and the date of service. Failure to make proof of service does not affect the validity of the service.

§ 503.411 *Applicability.* The provisions of this order shall be applicable in the continental United States and within the territories and possessions thereof.

§ 503.412 *Definitions.* As used in this order, and unless otherwise indicated by the context, the term:

(a) "Person" means any individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, or personal representatives, and includes any department or agency of the United States, any State, the District of Columbia, or any other political, governmental or legal entity.

(b) "Official document" shall include a written order, directive, instruction, notice, approval, decision, finding, request, inquiry, questionnaire, prescribed form, and any other written instrument evidencing official action by the Office of Defense Transportation.

§ 503.413 *Repeal of conflicting provisions.* The conflicting provisions of §§ 503.100, 503.101, 503.103, 503.104, 503.105 and 503.106 of Administrative Order ODT 5 (8 F.R. 13071), §§ 503.314, 503.316, 503.317, and 503.319 of Administrative Order ODT 14 (9 F.R. 1184), §§ 503.333, 503.335, 503.336, and 503.338 of Administrative Order ODT 15 (9 F.R. 1186), and §§ 503.390, 503.392, 503.393 and 503.394 of Administrative Order ODT 19 (9 F.R. 2693), relating to the service of official documents, and any other provisions of Office of Defense Transportation orders or directives in conflict herewith, are hereby revoked as of the effective date of this order.

This order shall become effective on March 27, 1944.

Issued at Washington, D. C., this 14th day of March 1944.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

[F. R. Doc. 44-3825; Filed, March 18, 1944; 10:25 a. m.]

[A. O. ODT 22]

PART 503—ADMINISTRATION

EXERCISE OF DELEGATED AUTHORITY

Pursuant to Executive Orders 8989, as amended, 9108, as amended, 9156, 9214, 9294, and 9341, and War Production Board Directive 21, it is hereby ordered:

§ 503.420 *Continuance of authority and functions.* Federal officers, departments, agents and agencies, and employees shall continue to exercise the authority and perform the functions heretofore conferred and imposed upon them by the Director of the Office of Defense Transportation until otherwise ordered. Any authority or functions required to be exercised in the name of such Director shall be exercised in the name of the Acting Director.

(E.O. 8989, as amended, 6 F.R. 6725 and 8 F.R. 14183; E.O. 9108, as amended, 7 F.R. 2201 and 8 F.R. 3687; E.O. 9156, 7 F.R. 3349; E.O. 9214, 7 F.R. 6097; E.O. 9294, 8 F.R. 221; E.O. 9341, 8 F.R. 6323; War Production Board Directive 21, 8 F.R. 5834)

Issued at Washington, D. C., this 16th day of March 1944.

C. D. YOUNG,
Acting Director,
Office of Defense Transportation.

[F. R. Doc. 44-3882; Filed, March 20, 1944; 10:22 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service

Subchapter Y—Cooperation With Other American Republics

[Amendment 1]

PART 295—FISHERY FELLOWSHIPS FOR STUDENTS FROM OTHER AMERICAN REPUBLICS

ALLOWANCES AND EXPENSES

Section 295.4, paragraphs (a) and (c) of the regulations governing fishery fellowships for students from other American Republics, signed by the Director of the Fish and Wildlife Service, approved by the Secretary of the Interior on January 26, 1942, and approved by the Acting Secretary of State on March 5, 1942 (7 F.R. 2517), are hereby amended as follows:

§ 295.4 *Allowances and expenses.* Applicants awarded fellowships may be entitled to any or all of the following:

(a) *Monthly allowances.* Monthly allowances for quarters and subsistence during the entire period of studies in the United States, or its Territories or Possessions, while the fellow is not in travel status, at the following rates: (1) Not exceeding $180 per month while receiving training in a Department or agency of the Federal Government in a city of more than 100,000 population, or not exceeding $150 per month while receiving such training in a city of less than 100,000 population; and (2) Not exceeding $135 per month while receiving training at colleges or universities and residing in quarters usually occupied by students in attendance thereat or in similar quarters, irrespective of the population of the city wherein the institution is located.

* * * * *

(c) *Per diem while fellow is in travel status.* Per diem in lieu of subsistence at not to exceed the following rates: $6.00 over land or by air in and outside of the continental limits of the United States and $4.00 aboard vessels outside of the United States.

Issued this 23d day of June 1943.

IRA N. GABRIELSON,
Director.

Approved: June 25, 1943.

ABE FORTAS,
Acting Secretary of the Interior.

Approved: January 20, 1944.

CORDELL HULL,
Secretary of State.

[F. R. Doc. 44-3857; Filed, January 31, 1944; 10:33 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Office of the Secretary.

DIRECTOR OF THE NATIONAL PARK SERVICE

DELEGATION OF AUTHORITY

Pursuant to the provisions of sec. 161, Revised Statutes (5 U.S.C. sec. 22), sections 2 and 3 of the act of August 25, 1916 (39 Stat. 535, as amended June 2, 1920, 41 Stat. 732, March 4, 1921, 41 Stat. 1407, March 7, 1928, 45 Stat. 235, 16 U.S.C. secs. 2 and 3), and section 3 of the act of May 26, 1930 (46 Stat. 382, 16 U.S.C. sec. 17b), it is hereby ordered as follows:

1. The Director of the National Park Service may hereafter act in relation to the following classes of matters relating to National Park Service concessioners and concession contracts without obtaining Secretarial approval, unless the Secretary in any particular matter determines otherwise, and subject in any event to an appeal to the Secretary in appropriate cases:

(a) Determination of the concessioner's equity at the beginning of operations under the contract and the approval of the initial balance sheet.

(b) Determination when a performance bond should be furnished by the concessioner and the amount thereof.

(c) Passing upon the fitness of the employees of concessioners.

(d) Determination of the accounting records to be maintained by the concessioners and the type of reports to be submitted.

(e) Approval of the merchandise to be sold under concessioners' contracts.

(f) Approval of the plans and specifications for replacement of buildings and structures owned by the concessioner and for the installation of utilities by the concessioner when necessary funds are not available from the Government.

(g) Determination of the scale of the topographic map to be prepared by the concessioner.

2. All general rules, regulations and instructions must be approved by the Secretary. This order does not affect the responsibility of the Solicitor for the review of legal questions.

3. This order is effective immediately, but matters now pending before the Department will be cleared as heretofore.

HAROLD L. ICKES,
Secretary of the Interior.

MARCH 14, 1944.

[F. R. Doc. 44-3826; Filed, March 18, 1944; 11:10 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

LEARNERS EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rate applicable under section 6 of the act are issued under section 14 thereof, Part 522 of the regulations issued thereunder (August 16, 1940, 5 F.R. 2862, and as amended June 25, 1942, 7 F.R. 4725), and the determination and order or regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591), as amended by Administrative Order March 13, 1943 (8 F.R. 3079).

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry, Learner Regulations, July 20, 1942 (7 F.R. 4724), as amended by Administrative Order March 13, 1943 (8 F.R. 3079), and Administrative Order, June 7, 1943 (8 F.R. 7890).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order September 20, 1940 (5 F.R. 3748) and as further amended by Administrative Order, March 13, 1943 (8 F.R. 3079).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530), as amended by Administrative Order March 13, 1943 (8 F.R. 3079).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982), as amended by Administrative Order, March 13, 1943 (8 F.R. 3079).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446), as amended by Administrative Order March 13, 1943 (8 F.R. 3079).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of amended order for the employment of learners in the Cigar Manufacturing Industry, July 20, 1941 (6 F.R. 3753).

The employment of learners under these certificates is limited to the terms and conditions therein contained and to the provisions of the applicable determination and order or regulations cited above. The applicable determination and order or regulations, and the effective and expiration dates of the certificates issued to each employer is listed below. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates, may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EFFECTIVE DATES

APPAREL INDUSTRY

Thompsontown Manufacturing Company, Thompsontown, Pennsylvania; Army shorts, men's nightwear; 5 learners (T); effective March 20, 1944, expiring March 19, 1945.

SINGLE PANTS, SHIRTS, AND ALLIED GARMENTS, WOMEN'S APPAREL, SPORTSWEAR, RAINWEAR, ROBES AND LEATHER AND SHEEP-LINED GARMENTS DIVISIONS OF THE APPAREL INDUSTRY

Colonial Frocks, Inc., 32 S. La Salle Street, Aurora, Illinois; dresses; 10 percent (T); effective March 16, 1944, expiring March 15, 1945.

The Fitz Overall Company, Atchison, Kansas; overalls, work pants, jackets and suits; 10 learners (T); effective March 16, 1944, expiring March 15, 1945.

The H. W. Gossard Company, Ishpeming, Michigan; combinations and brassieres; 10 percent (T); effective March 16, 1944, expiring March 15, 1945.

Julius Leventhal & Bros., Lykens, Pennsylvania; work shirts; 10 percent (T); effective March 16, 1944, expiring March 15, 1945.

Jacob Miller's Sons Company, 26th & Reed Streets, Philadelphia, Pennsylvania; dress shirts; 5 learners (T); effective March 16, 1944, expiring March 15, 1945.

New Berlin Garment Company, New Berlin, Pennsylvania; dresses; 6 learners (T); effective March 16, 1944, expiring March 15, 1945.

Ottenheimer Bros., Inc., 115 Woodlane, Little Rock Arkansas; women's uniforms, dresses and smocks; 10 percent (T); effective March 18, 1944, expiring July 17, 1944.

Wonder Youth Lingerie Company, Main and Cedar Streets, Washington, Missouri; junior underwear, slips, nightgowns, pajamas; 10 learners (T); effective March 14, 1944, expiring March 13, 1945.

Wyoming Frocks, Inc., 342-346 Wyoming Avenue, Wyoming, Pennsylvania; dresses; 25 learners (E); effective March 20, 1944, expiring August 19, 1944.

GLOVE INDUSTRY

Green Mountain Glove Company, 3 Central Street, Randolph, Vermont; work gloves; 3 learners (T); effective March 16, 1944, expiring March 15, 1945.

HOSIERY INDUSTRY

Clay County Products Company, Inc., Green Cove Springs, Florida; full-fashioned hosiery; 5 learners (T); effective March 18, 1944, expiring March 17, 1945.

Johnson Hosiery Mill, Longview Street, Hickory, North Carolina; seamless hosiery; 2 learners (T); effective March 18, 1944, expiring March 17, 1945.

Lillian Knitting Mills Company, Albemarle, North Carolina; full-fashioned hosiery; 5 percent (T); effective March 18, 1944, expiring March 17, 1945.

TELEPHONE INDUSTRY

Central Iowa Telephone Company, Cedar Rapids, Iowa; to employ learners as commercial switchboard operators at its Emmetsburg exchange, located at 2201 Main Street, Emmetsburg, Iowa; effective March 16, 1944, expiring March 15, 1945.

Central Iowa Telephone Company, Toledo, Iowa; to employ learners as commercial switchboard operators at its Gladbrook exchange, located at Gladbrook, Iowa; effective March 16, 1944, expiring March 15, 1945.

West Iowa Telephone Company, Remsen, Iowa; to employ learners as commercial switchboard operators at its Marcus exchange, located at Marcus, Iowa; effective March 16, 1944, expiring March 15, 1945.

West Iowa Telephone Company, Remsen, Iowa; to employ learners as commercial switchboard operators at its Remsen exchange, located at Remsen, Iowa; effective March 16, 1944, expiring March 15, 1945.

TEXTILE INDUSTRY

Bernson Silk Mills, Inc., 535 Sycamore Avenue, Buena Vista, Virginia; rayon and nylon; 10 percent (AT); effective March 20, 1944, expiring August 19, 1944.

The Berryton Mills, Berryton, Georgia; yarns; 3 percent (T); effective March 13, 1944, expiring March 12, 1945.

Cleveland Silk Mills, Inc., 38th Street, Cleveland, Tennessee; rayon; 20 learners (AT); effective March 11, 1944, expiring September 10, 1944.

Southern Webbing Mills, Inc., Reidsville Road, Greensboro, North Carolina; elastic and narrow fabrics; 3 learners (T); effective March 16, 1944, expiring March 15, 1945.

Signed at New York, N. Y., this 18th day of March 1944.

PAULINE C. GILBERT,
Authorized Representative of the Administrator.

[F. R. Doc. 44-3857; Filed, March 20, 1944; 10:59 a. m.]

LEARNERS EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that special certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the act are issued under section 14 thereof and § 522.5 (b) of the regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective as of the date specified in each listed item below.

The employment of learners under these certificates is limited to the terms and conditions as designated opposite the employer's name. These certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The certificates may be cancelled in the manner provided for in the regulations and as indicated on the certificate. Any person aggrieved by the issuance of the certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATION, EXPIRATION DATE

Harper Brush Works, 404 North Second Street, Fairfield, Iowa; brushes; 11 learners (T); brush making for a learning period of 320 hours at 30 cents per hour for the first 160 hours and 35 cents per hour for the next 160 hours; effective January 13, 1944, expiring July 31, 1944. (Revised certificate)

Nelsonville Electric & Manufacturing Company, Carbon Hill, Ohio; furniture; 4 learners (T); assembler, sewer and cutter-for a learning period of 160 hours at 35 cents per

hour; effective March 13, 1944, expiring September 13, 1944.

Signed at New York, New York, this 18th day of March 1944.

PAULINE C. GILBERT,
Authorized Representative of the Administrator.

[F. R. Doc. 44-3886; Filed, March 20, 1944; 10:59 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. FDC-29 (b)]

DEFINITION AND STANDARD OF IDENTITY FOR CREAM CHEESE

NOTICE OF HEARING

In the matter of a proposal to amend the definition and standard of identity for cream cheese.

Notice is hereby given that the Administrator of the Federal Security Agency, upon the application of a substantial portion of the interested industry stating reasonable grounds therefor and in accordance with the provisions of sections 401 and 701 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. secs. 341 and 371 (Supp. V. 1939); the Reorganization Act of 1939, 53 Stat. 561, 5 U.S.C. sec. 133 (Supp. V. 1939) and Reorganization Plans No. I (53 Stat. 1423, 4 F.R. 2727) and No. IV (54 Stat. 1234, 5 F.R. 2421), will hold a public hearing, commencing at 10 o'clock in the morning of April 26, 1944, in Room 3106, South Building, United States Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., upon a proposal to amend § 19.515 (a) of the regulation which prescribes a definition and standard of identity for cream cheese (7 F.R. 10758) by increasing the maximum amount of moisture that may be contained therein from 55 percent to 59 percent.

Mr. Bernard D. Levinson hereby is designated as presiding officer to conduct the hearing, in the place of the Administrator, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing.

The hearing will be conducted in accordance with the rules of practice provided therefor (See 5 F.R. 2379-2381).

In lieu of oral testimony, interested persons may submit affidavits to the presiding officer at Room 4148, South Building, United States Department of Agriculture, Independence Avenue, between 12th and 14th Streets, S. W., Washington, D. C., at any time prior to the hearing. Such affidavits should be submitted in quintuplicate and, if relevant and material, will be received and made a part of the record of the hearing, but the Administrator will consider the lack of opportunity for cross-examination in determining the weight to be given to statements contained therein. Every interested person will be permitted, in accordance with the above-mentioned rules of practice, to examine all affidavits submitted and to file counter-affidavits with the presiding officer.

At the hearing evidence will be restricted to testimony and exhibits that are relevant and material to the issue contained in the proposal.

The proposal is subject to adoption, rejection, amendment, or modification by the Administrator, in whole or in part, as the evidence adduced at the hearing may require.

WATSON B. MILLER,
Acting Administrator.

MARCH 18, 1944.

[F. R. Doc. 44-3943; Filed, March 20, 1944; 11:40 a. m.]

INTERSTATE COMMERCE COMMISSION.

[S. O. 70-A, Corrected Spec. Permit 138]

RECONSIGNMENT OF PEAS AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, March 15 or 16, 1944, by Yeckes-Eichenbaum Company of car PFE 44324, peas, now on the Chicago Produce Terminal to New York, New York. (B. & O.)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3930; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 70-A, Spec. Permit 139]

RECONSIGNMENT OF POTATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, March 15 or 16, 1944, by P. N. Skalerup Company of car SFRD 19311, potatoes, now on the Wood Street Terminal to Paris, Illinois.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3931; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 70-A, Spec. Permit 140]

RECONSIGNMENT OF POTATOES AT ST. LOUIS, MO.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at St. Louis, Missouri, March 15 or 16, 1944, by Michael Swanson Brady Produce Company of car PFE 62500, potatoes, now on the Burlington Lines to Shreveport, Louisiana.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3932; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 70-A, Spec. Permit 141]

RECONSIGNMENT OF POTATOES AT KANKAKEE, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70–A insofar as it applies to the reconsignment at Kankakee, Illinois, March 15 or 16, 1944, by E. H. Anderson Company of car NRC 17043, potatoes, now on the Illinois Central Railroad, to Dothan, Alabama.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3933; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 70–A, Spec. Permit 142]

RECONSIGNMENT OF POTATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70–A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70–A insofar as it applies to the reconsignment at Chicago, Illinois, March 16 or 17, 1944, by S. Friedman Sons of car FGE 38172, potatoes, now on the Wood Street Terminal, to Cincinnati, Ohio.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3934; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 70–A, Spec. Permit 143]

RECONSIGNMENT OF APPLES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70–A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70–A insofar as it applies to the reconsignment at Chicago, Illinois, March 16 or 17, 1944, by Auster Company of car PFE 91447, apples, now on the Rock Island Lines to Streator, Illinois.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3935; Filed, March 20, 1944; 11:27 a. m.]

[S.O. 70–A, Spec. Permit 144]

RECONSIGNMENT OF GRAPEFRUIT AT LOS ANGELES, CALIF.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70–A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70–A insofar as it applies to the reconsignment at Los Angeles, California, March 16 or 17, 1944, by American Fruit Growers of car SP 185337, grapefruit, now on the Atchison, Topeka & Santa Fe Railway to unnamed destination.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3936; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 164, Gen. Permit 13]

REICING OF NAVEL ORANGES ORIGINATING IN ARIZONA AND CALIFORNIA

Pursuant to the authority vested in me by paragraph (g) of the first ordering paragraph (§ 95.323, 8 F.R. 15491) of Service Order No. 164 of November 10, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To reice twice in transit to full bunker capacity at any points in the States of California, Oregon, Nevada, Utah, Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Kansas, or Missouri or at Omaha, Nebraska, East St. Louis, Illinois, Council Bluffs, Iowa, Memphis, Tennessee, or Jackson, Mississippi, refrigerator cars loaded with Navel oranges, originating in Arizona and California. This reicing shall be in addition to the replenishing service at the first regular icing station, provided in Amended General Permit No. 8 Under Service Order No. 164.

The waybills shall show reference to this general permit.

This permit shall become effective at 12:01 a. m., March 18, 1944, and shall expire at 12:01 a. m., April 18, 1944.

A copy of this permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car-service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 17th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3937; Filed, March 20, 1944; 11:27 a. m.]

[S. O. 164, Spec. Permit 26]

REFRIGERATION OF CITRUS FRUIT AT POINTS IN CALIFORNIA

Pursuant to the authority vested in me by paragraph (g) of the first ordering paragraph (§ 95.323, 8 F.R. 15491) of Service Order No. 164 of November 10, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

At the carrier's option to accord standard refrigeration on any refrigerator car, loaded with citrus fruit, originating at any point in California, on which the shipper requests precooling by the carrier at Los Angeles, or Colton, California, under Rule 245 of the Perishable Protective Tariff, Agent J. J. Quinn's I. C. C. No. 19, in lieu of the service ordered by the shipper, where the carrier is unable to perform such precooling when ordered by the shipper because the ice plants at Colton, and Los Angeles are partially shut down for repairs or alterations.

This permit shall become effective at 12:01 a. m., March 16, 1944, and shall expire at 12:01 a. m., April 16, 1944.

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3938; Filed, March 20, 1944; 11:23 a. m.]

[S. O. 178, Spec. Permit 75]

LOADING OF LARD AT OMAHA, NEBR.

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 178 insofar as it applies to the loading of one PFE refrigerator car with lard by the Cudahy Packing Company at Omaha, Nebraska, and the movement of the one car so loaded March 18, 1944, to Harmosillo, Mexico (R. I.-S. P.-S. P. deM) under refrigeration.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 15th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3939; Filed, March 20, 1944; 11:28 a. m.]

LOADING OF PACKAGED CHEESE AND SPREAD AT FREEPORT, ILL.

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 178 insofar as it applies to the loading of two refrigerator cars with cheese and spread in packages and jars by Kraft Cheese Company at Freeport, Illinois, and the movement of the two refrigerator cars so loaded from that point March 16, 1944, to Jersey City, New Jersey, and to Cincinnati, Ohio. (C. M. St. P. & P.)

The waybills shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3940; Filed, March 20, 1944; 11:28 a. m.]

[S. O. 178, Spec. Permit 77]

LOADING OF SHORTENING AT BERKELEY, CALIF.

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 178 insofar as it applies to the loading of car PFE 13851 with shortening by Durkees Famous Foods at Berkeley, California, and the movement of that car so loaded from that point not later than March 21, 1944, to Seattle, Washington (SP-GN).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3941; Filed, March 20, 1944; 11:28 a. m.]

[S. O. 178, Spec. Permit 78]

LOADING OF SHORTENING AT MEMPHIS, TENN.

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 178 insofar as it applies to the loading of one refrigerator car with shortening by The Humko Company at Memphis, Tennessee, and the movement of the one refrigerator car so loaded from that point March 18, 1944, to the Great A. & P. Tea Company, Somerville, Massachusetts. (I. C.)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 16th day of March 1944.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 44-3942; Filed, March 20, 1944; 11:28 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

[Supp. Order ODT 3, Rev. 191]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN KANSAS AND MISSOURI

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended, (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 947), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be

[1] Filed as part of the original document.

authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective March 22, 1944, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 14th day of March 1944.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

APPENDIX 1

Boyd Truck Lines, Inc., 500 West 4th Street, Kansas City, Mo.
Watson Bros. Transportation Co., Inc., 802 South 14th St., Omaha, Nebr.
Adams Transfer & Storage Company, 228 West 4th St., Kansas City, Mo.

[F. R. Doc. 44-3739; Filed, March 17, 1944; 10:23 a. m.]

[Supp. Order ODT 3, Rev. 193]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN NEW YORK, N. Y., AND POINTS IN MASSACHUSETTS

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445; 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 947), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective March 22, 1944, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 14th day of March 1944.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

APPENDIX 1

1. Dana Trucking Co., Inc., Lawrence, Massachusetts.
2. Nathan F. Smith and John F. Partelo doing business as L. & L. Transportation Co., Lowell, Massachusetts.

[F. R. Doc. 44-3740; Filed, March 17, 1944; 10:23 a. m.]

[Supp. Order ODT 3, Rev. 194]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN WISCONSIN

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 947), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body

[1] Filed as part of the original document.

or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective March 22, 1944, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 14th day of March 1944.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

APPENDIX 1

1. Earl S. Jones, doing business as Jones Transfer Line, 404 Henry Street, Green Bay, Wis.
2. Schneider Transport & Storage Company, 444 South Jackson Street, Green Bay, Wis.
3. Leicht Transfer & Storage Company, 123 S. Broadway, Green Bay, Wis.
4. Warren P. Spofford and Alden A. Spofford, doing business as Packer City Transit Line, 1253 Shawano Avenue, Green Bay, Wis.

[F. R. Doc. 44-3741; Filed, March 17, 1944; 10:23 a. m.]

[Supp. Order ODT 3, Rev. 195]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN OKLAHOMA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 947), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

7. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Division of Motor Transport, Office of Defense Transportation, Washington, D. C.

This order shall become effective March 22, 1944, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 14th day of March 1944.

C. D. YOUNG,
Deputy Director,
Office of Defense Transportation.

APPENDIX 1

1. Couch Transfer & Storage Co., Inc., Ada, Okla.
2. Luper Transportation Company of Oklahoma, Shawnee, Okla.

[F. R. Doc. 44-3742; Filed, March 17, 1944; 10:24 a. m.]

[1] Filed as part of the original document.

OFFICE OF PRICE ADMINISTRATION

[MPR 136, Rev. Order 158]

CHEVROLET MOTOR DIVISION, GENERAL MOTORS CORP.

AUTHORIZATION OF MAXIMUM PRICES

Order No. 158, under Maximum Price Regulation 136, as amended, machines and parts and machinery services, is redesignated Revised Order No. 158, under that regulation, and is amended and revised to read as follows:

Revised Order No. 158, under Maximum Price Regulation 136, as amended. Machines and parts and machinery serv-

ices. Chevrolet Motor Division, General Motors Corporation; Docket No. 3136–389.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to and under the authority of the Emergency Price Control Act of 1942, as amended, Executive Orders 9250 and 9328, and § 1390.25a of Maximum Price Regulation 136, as amended: *It is hereby ordered:*

(a) Chevrolet Motor Division, General Motors Corporation, General Motors Building, Detroit 2, Michigan, is authorized to sell to resellers each of the truck models listed in subparagraph (1) at a price not to exceed the "Net wholesale price" listed in that subparagraph, subject to the discounts in effect on March 31, 1942, to the applicable class of reseller, plus the applicable allowances in subparagraph (2):

(1) *Model, description and "net wholesale price."*

4103; Ucab–134½" Utility Chassis and Cab; $680.20.
4403; Ulcab–160" Utility Chassis and Cab; $695.40.
4409; Ulstk–160" Utility Chassis, Cab and Stake Body; $817.00.

(2) *Allowances.* (i) Allowance for extra, special, and optional equipment.

The allowance for parts covered by Maximum Price Regulation 452 shall not exceed applicable list prices in effect under that regulation, to which shall be applied the seller's regular wholesale discount in effect on March 31, 1942, to the applicable class of purchaser, for these parts when sold in connection with the applicable truck model described in subparagraph (1). The allowance for all other extra, special, or optional equipment, including oversize tires, shall not exceed the allowance for such equipment in effect on March 31, 1942, to the applicable class of purchaser.

(ii) Allowance to include federal excise tax and tire weight tax computed in accordance with the seller's method in effect on March 31, 1942.

(iii) Allowance for freight based on freight rates from Flint, Michigan, to place of delivery.

(iv) Allowance to cover seller's expense for unloading, handling, delivery, gas and oil, not to exceed $5.00, where the model is shipped to a company owned zone sales location.

(v) Allowance to cover seller's expense during January, February and March 1944, for storage in non-company owned storage locations, not to exceed $7.50 for the first month's storage or $5.00 for each other month's storage during this three months period.

(b) A reseller of Chevrolet motor trucks may sell, f. o. b. place of business, each Chevrolet motor truck of a model described in subparagraph (1) below, at a price not to exceed the applicable "Retail list price" in that subparagraph plus the applicable allowances in subparagraph (2) below, subject to the discounts in effect on March 31, 1942, for the applicable class of purchaser:

(1) *Model, description and "retail list price."*

4103; Ucab—134½" Utility Chassis and Cab; $895.00.
4403; Ulcab—160"-Utility Chassis and Cab; $915.00.
4409; Ulstk—160" Utility Chassis, Cab and Stake Body; $1,075.00.

(2) *Allowances.* (i) An allowance for extra, special and optional equipment. The allowance for parts covered by Maximum Price Regulation 453, shall not exceed applicable maximum prices under that regulation. Allowance for all other equipment, including oversize tires, shall not exceed the allowance the reseller had in effect on March 31, 1942, for such equipment, to the applicable class of purchaser.

(ii) Actual freight-in expense.

(iii) The reseller's charge for handling and delivery in effect on March 31, 1942, and in addition, the storage charges he has to pay under subdivision (v) of paragraph (a) (2).

(iv) Allowance to include federal, state, and local taxes on his purchase, and sale, or delivery, of the applicable truck model, computed in accordance with the reseller's method in effect on March 31, 1942.

(v) The dollar amount of all other charges or allowances which the reseller had in effect on March 31, 1942, to the applicable class of purchaser.

(c) All requests in the application not granted in this revised order are denied.

(d) This revised order may be revoked or amended by the Office of Price Administration at any time.

This revised order shall be effective as of March 2, 1944.

Issued this 17th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3822; Filed, March 17, 1944; 4:33 p. m.]

[MPR 176, Amdt. 1 to Order 5]

ROTARY CUT SOUTHERN HARDWOOD BOX LUMBER

An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Order No. 5 under Maximum Price Regulation No. 176 is amended in the following respect:

Paragraph (c) is amended to read as follows:

(c) This order shall be effective February 8, 1944.

This amendment shall become effective March 18, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3852; Filed, March 18, 1944; 11:41 a. m.]

[RMPR 161, Order 42,[1] Correction]

BARRET BROS. ET AL

OVERTIME ADDITION

Order No. 42 under § 1331.156 of Revised Maximum Price Regulation 161 (West Coast Logs) paragraph (b) is corrected so that the name, address, etc., of the person authorized reads as follows:

Elmer E. Watters, Lebanon, Ore.: 48 hours—$1.00; November 1, 1943.

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3850; Filed, March 18, 1944; 11:41 a. m.]

[MPR 188, Amdt. 30 to Order A-1]

SHALE AND CLAY BUILDING BRICK IN OHIO

MODIFICATION OF MAXIMUM PRICES

Amendment No. 30 to Order No. A–1 under § 1499.159b of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel.

An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Subparagraph (a) (26) is added to Order No. A–1 to read as set forth below:

(a) *Modification of maximum prices under Maximum Price Regulation No. 188.* The provisions of Maximum Price Regulation No. 188 as applied to certain commodities subject thereto, are modified in accordance with § 1499.159b of Maximum Price Regulation No. 188 as hereinafter provided.

* * * * *

(26) *Modification of maximum prices for shale and clay building brick produced in the State of Ohio, except Cuyahoga County.* (i) On and after March 20, 1944, any manufacturer located in the State of Ohio, except Cuyahoga County, producing shale and clay building brick (smooth, sanded, or wire cut) may increase his maximum prices, established by Maximum Price Regulation No. 188 and in effect on June 14, 1943, by an amount not in excess of $3.00 per thousand on sales f. o. b. plant or delivered to destination.

(ii) On and after March 20, 1944, any person who purchases shale and clay building brick for the purpose of resale from any manufacturer located in the State of Ohio, except Cuyahoga County, whose maximum price has been adjusted pursuant to subdivision (i), may increase his maximum prices, f. o. b. yard or delivered, established by the General Maximum Price Regulation and in effect on June 14, 1943, by an amount not in excess of the dollars-and-cents increase in cost to him resulting from the adjustment permitted herein to producers.

(iii) The maximum prices fixed herein shall be subject to at least the same extension of cash, quantity, and other

[1] 9 F.R. 2483.

discounts, transportation allowances, and the same rendition of transportation and other services as the seller extended or rendered on comparable sales to purchasers of the same class during the month of March 1942.

(iv) Any adjustments granted by the Office of Price Administration subsequent to June 14, 1943, and prior to March 20, 1944, adjusting maximum prices for any manufacturer located in the State of Ohio, except Cuyahoga County, producing shale and clay building brick, are hereby revoked insofar as such Orders are applicable to shale and clay building brick.

(v) Any adjustments granted by the Office of Price Administration subsequent to June 14, 1943, and prior to March 20, 1944, adjusting maximum prices for the resale of shale and clay building brick purchased from manufacturers located in the State of Ohio, except Cuyahoga County, are hereby revoked insofar as such Orders are applicable to shale and clay building brick.

This Amendment No. 30 shall become effective March 20, 1944.

(56 Stat. 23, 765; Pub Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 18th day of March 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-3868; Filed, March 18, 1944; 4:47 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-873]

CONSOLIDATED ELECTRIC AND GAS CO.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 16th day of March, A. D., 1944.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Consolidated Electric and Gas Company ("Consolidated"), a registered holding company.

All interested persons are referred to said document, which is on file in the office of the Commission, for a statement of the transactions therein proposed, which may be summarized as follows:

Consolidated proposes to sell to Scott, Horner and Mason, Incorporated, an investment banking firm of Lynchburg, Virginia, all of the capital stock of Roanoke Gas Company ("Roanoke"), a subsidiary of Consolidated engaged in the gas utility business in and around Roanoke, Virginia. Said stock, consisting of 47,900 shares without par value, is proposed to be sold for $831,271, subject to adjustments for dividends and net earnings after January 1, 1944.

In connection with the sale by Consolidated of the stock of Roanoke, Consolidated proposes to sell to the same purchaser, $144,000 principal amount of First Mortgage 5½% Gold Bonds, due February 1, 1951, of Roanoke owned by Consolidated for 101% of the principal amount thereof and accrued interest.

Consolidated states that the Roanoke stock is presently pledged under the indenture securing the Collateral Trust Gold Bonds of Consolidated ("Consolidated Bonds") and that the Roanoke bonds owned by Consolidated are pledged under instruments securing certain bonds assumed by Consolidated and known as Federated Utilities, Inc. First Lien Collateral Trust 5½% Gold Bonds, due March 1, 1957 ("Federated Bonds"), but that said Roanoke bonds are also subject to a second lien under the indenture securing the above mentioned Consolidated Bonds. Consolidated further states that sufficient funds have been deposited with the trustee under the indenture securing the Federated Bonds for the retirement of all such Federated Bonds. It is proposed that the proceeds of the sale of the Roanoke stock shall, in effect, be applied in the retirement of Consolidated Bonds, such retirement to be effected by purchase of such bonds by Consolidated in the open market to the amount of such proceeds, the surrender of the bonds so purchased to the trustee under the indenture securing the same, and reimbursement of Consolidated from the proceeds of said sale for the amounts so expended by it. The moneys to be received from the sale of the Roanoke bonds are to be expended in like manner in the retirement of Consolidated Bonds when the proceeds of the sale thereof shall have been released from the lien of the Federated Bond indenture.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said matters and that said application or declaration (or both) shall not be granted or permitted to become effective except pursuant to further order of this Commission.

It is ordered, That a hearing on said matters under the applicable provisions of said act and the rules of the Commission thereunder be held on March 28, 1944, at 10:00 a. m., e. w. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania. On such day, the hearing room clerk in Room 318 will advise as to the room in which the hearing will be held.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing copies of this order to Consolidated Electric and Gas Company, Roanoke Gas Company, the State Corporation Commission of Virginia, and the Mayor of Roanoke, Virginia; and that notice of said hearing be given to all persons by publication of this order in the FEDERAL REGISTER. Any person desiring to be heard in connection with these proceedings, or proposing to intervene herein shall file with the Secretary of the Commission on or before March 24, 1944, his request or application therefor, as provided by Rule XVII of the Rules of Practice of the Commission.

It is further ordered, That Richard Townsend, or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That, without limiting the scope of the issues presented by said application or declaration (or both), particular attention will be directed at the hearing to the following matters and questions:

(1) Whether the consideration to be received for the bonds and stock of Roanoke proposed to be sold is reasonable;

(2) Whether the proposed use of the proceeds of the sale of said securities in the retirement of the above mentioned Consolidated Bonds through purchases of such bonds in the open market is in conformity with the applicable provisions of the act;

(3) Generally, whether in any respect, the proposed transactions are detrimental to the public interest or to the interest of investors or consumers or will tend to circumvent any provisions of the Act or the rules and regulations promulgated thereunder

(4) Whether, if the proposed transactions are authorized, the imposition of terms and conditions is necessary and appropriate in the public interest or for the protection of investors and consumers and, if so, what terms and conditions should be imposed.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 44-3816; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-1275]

ADAMS OIL AND GAS CO.

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The Adams Oil and Gas Company, pursuant to section 12 (d) of the Securities and Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to withdraw its Common Stock, No Par Value, from listing and registration on The Chicago Stock Exchange;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 44-3808; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-32]

SIMMS PETROLEUM CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule I-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Capital Stock, $10 Par Value, of Simms Petroleum Company;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3809; Filed, March 17, 1944; 2:57 p. m.]

[File 1-1716]

ASSOCIATED INSURANCE FUND, INC.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The San Francisco Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, $10 Par Value, of Associated Insurance Fund, Inc.;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3810; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-759]

NORTHWESTERN TELEGRAPH CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 4½% First Mortgage Thirty-Year Funding Gold Bonds, due January 1, 1934, extended to January 1, 1944, of Northwestern Telegraph Company;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3811; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-662]

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 5½% Twenty-Five Year Gold Notes, due March 1, 1949, of Minneapolis, St. Paul & Sault Ste. Marie Railway Company;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3812; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-3179]

STOKELY FOODS, INC.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The New York Curb Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the $1.50 Cumulative Dividend Preferred Stock, $1 Par Value, of Stokely Foods, Inc.;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3814; Filed, March 17, 1944; 2:57 p. m.]

[File No. 1-957]

MARKET STREET RAILWAY CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March, A. D. 1944.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 7% First Mortgage Sinking Fund Gold Bonds, Series A, due April 1, 1940, of Market Street Railway Company;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 25, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3813; Filed, March 17, 1944; 2:57 p. m.]

[File Nos. 31-481, 467, 165, 484, 483, 473, 107, 162, 164, 525]

KOPPERS UNITED CO., ET AL.

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 15th day of March 1944.

In the matter of Koppers United Company, File No. 31-481; The Brooklyn Union Gas Company, File No. 31-467; Koppers Company, File No. 31-165; Eastern Gas and Fuel Associates, File No. 31-484; Koppers United Company, Fuel Investment Associates and Eastern Gas

and Fuel Associates, File No. 31-483; Brockton Gas Light Company, File No. 31-473; Koppers United Company, File No. 31-167; Fuel Investment Associates, File No. 31-162; Eastern Gas and Fuel Associates, File No. 31-164; and Koppers Company, File No. 31-525.

The Commission having by order dated February 19, 1944 designated March 21, 1944 as the date for reconvening the hearing in the above consolidated proceeding involving the applications filed by Koppers United Company, Koppers Company, Fuel Investment Associates and Eastern Gas and Fuel Associates under section 3 of the Public Utility Holding Company Act of 1935 for an order exempting each of such applicants and every subsidiary thereof as such from all of the provisions of the Act; and

The applicants having requested that the hearing in this matter be postponed to April 17, 1944; and the Commission deeming it appropriate that the hearing be postponed but for a period not exceeding two weeks;

It is ordered, That the hearing in this matter previously scheduled for March 21, 1944, at 10:00 a. m., e. w. t., in the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, be, and hereby is, postponed to April 4, 1944, at the same hour and place and before the same trial examiner as heretofore designated.

It is further ordered, That the time within which any person desiring to be heard or otherwise to participate in said proceedings shall file his request or application therefor with the Secretary of the Commission, as provided by Rule XVII of the Commission's Rules of Practice, be, and the same hereby is, extended to April 1, 1944.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3815; Filed, March 17, 1944; 2:57 p. m.]

[File Nos. 54-57, 59-57, 70-860]

AMERICAN UTILITIES SERVICE CORP., ET AL.

ORDER APPROVING PLAN AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 15th day of March, 1944.

In the Matter of American Utilities Service Corporation, File No. 54-57, and American Utilities Service Corporation and its subsidiary companies, respondents, File No. 59-57. In the matter of Fred D. Ellis and Edmund J. Haugh, File No. 70-860.

American Utilities Service Corporation, a registered holding company, having on August 31, 1942, filed an application pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 for approval of a plan for compliance with section 11 (b) (2); and

The Commission having thereafter instituted proceedings pursuant to section 11 (b) (1) and section 11 (b) (2) of said act; and

American Utilities Service Corporation having subsequently filed an application and declaration on January 17, 1944, and an amendment thereto on January 31, 1944, regarding the sale of all of the securities of its subsidiary, Northwestern Illinois Utilities, an electric and gas utility, such securities consisting of 95,000 shares of common stock, par value $5 per share, and an unsecured note dated November 1, 1938, and due November 1, 1964, in the principal amount of $375,000, the consideration being $840,000 in cash with interest at the rate of 6% per annum from January 1, 1944, to closing date; and

American Utilities Service Corporation having proposed to use the proceeds from such sale to call and retire $800,000 principal amount of its Collateral Trust 6% Bonds, Series A, due 1964; and

American Utilities Service Corporation having requested that the order of the Commission approving said plan of January 17, 1944, conform to the definition of the term "order of the Securities and Exchange Commission" contained in section 373 (a) of the Internal Revenue Code, as amended, and that such order contain the recitals, specifications and itemizations described in sections 371 (b), 371 (f) and 1808 (f) of said Internal Revenue Code, as amended; and

Fred D. Ellis and Edmund J. Haugh having filed an application pursuant to sections 9 (a) (2) and 10 of the act with respect to the acquisition of the securities of Northwestern Illinois Utilities; and

Consolidated hearings in the above matters having been held after appropriate notice; and the Commission having considered the record and having made and filed its findings and opinion herein:

It is hereby ordered, And recited that the sale and transfer by American Utilities Service Corporation of all of its securities of its subsidiary, Northwestern Illinois Utilities, consisting of 95,000 shares of common stock, par value $5 per share, and an unsecured note dated November 1, 1938 and due November 1, 1964 in the principal amount of $375,000 for the sum of $840,000 in cash with interest at the rate of 6% per annum from January 1, 1944 to closing date, and the use of the proceeds from such sale to call and retire a portion of its bonds, is necessary or appropriate to the integration or simplification of the American Utilities Service Corporation holding company system and is necessary or appropriate to effectuate the provisions of section 11 (b).

It is further ordered, That the said plan of American Utilities Service Corporation of January 17, 1944 be, and is hereby approved, and that the said declaration of the company be, and is hereby permitted to become effective, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered, That the said application by Fred D. Ellis and Edmund J. Haugh be, and hereby is approved, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3858; Filed, March 18, 1944; 2:37 p.m.]

[File No. 1-1616]

NEW YORK AND HARLEM RAILROAD CO.

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 16th day of March, A. D. 1944.

In the matter of New York and Harlem Railroad Company, $50 Par 10% Rental Preferred Stock.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the $50 Par 10% Rental Preferred Stock of New York and Harlem Railroad Company;

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Monday, March 27, 1944, at the office of the Securities and Exchange Commission, 120 Broadway, New York, New York, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That William J. Cogan, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3859; Filed, March 18, 1944; 2:37 p. m.]

BOND & GOODWIN, INC.

ORDER SUSPENDING REGISTERED BROKER-DEALER FROM NATIONAL SECURITIES ASSOCIATION AND DISCONTINUING REVOCATION PROCEEDINGS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 17th day of March, A. D., 1944.

In the matter of Bond & Goodwin Incorporated, 30 Federal Street, Boston, Massachusetts.

The Commission by order having instituted proceedings pursuant to section 15 (b) and section 15A (*l*) (2) of the Securities Exchange Act of 1934 to determine whether the registration of the respondent, Bond & Goodwin, Incorporated, as a broker-dealer should be revoked and whether or not the said Bond & Goodwin, Incorporated, should be suspended or expelled from the National Association of Securities Dealers, Inc., a registered national securities association;

Private hearings having been held after appropriate notice, and the Commission being duly advised and having this day filed its findings and opinion herein; on the basis of said findings and opinion: *It is ordered,* That the record and the findings and opinion of the Commission herein be made public;

It is further ordered, That the proceedings herein pursuant to section 15 (b) of the Securities Exchange Act of 1934 be and they hereby are discontinued; and

It is further ordered, Pursuant to section 15a (*l*) (2) of said act, that Bond & Goodwin, Incorporated, be and it hereby is suspended from the National Association of Securities Dealers, Inc. for a period of thirty days commencing one week from the date hereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3860; Filed, March 18, 1944; 2:37 p. m.]

[File No. 70-875]

LOUISIANA POWER & LIGHT CO.

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 17th day of March A. D. 1944.

Notice is hereby given that a declaration or application (or both) has been filed with this commission pursuant to the Public Utility Holding Company Act of 1935 by Louisiana Power & Light Company (hereinafter referred to as "Louisiana"), a subsidiary of Electric Power & Light Corporation, a registered holding company. All interested persons are referred to said document which is on file in the office of this Commission, for a statement of the transaction therein proposed, which is summarized as follows:

Louisiana proposes to issue and sell at public sale, pursuant to the competitive bidding provisions of Rule U-50, $17,000,000 principal amount of First Mortgage Bonds to mature April 1, 1974. The interest rate and the price to be paid to the company for such bonds (which shall not be less than 101¾% of the principal amount thereof) are to be fixed by the bid of the successful bidder for the proposed bonds. The proceeds from the sale of the bonds are to be applied toward the redemption of the company's presently outstanding $17,500,000 principal amount of First Mortgage Gold Bonds, 5% Series, due 1957 at 102½% of the principal amount thereof plus accrued interest to the date of redemption.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said declaration or application (or both), and that said declaration or application (or both), shall not become effective or be granted except pursuant to further order of the Commission.

It is ordered, That a hearing on said declaration or application (or both) under the applicable provisions of the Act and the Rules of the Commission thereunder be held on April 3, 1944 at 10:00 a. m., e. w. t., in the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such day, the hearing room clerk in Room 318 will advise as to the room in which such hearing will be held.

It is further ordered, That Allen McCullen or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing a copy of this order to the Public Service Commission of Louisiana and on the applicant or declarant herein; and that notice of said hearing be given to all persons by publication of this order in the FEDERAL REGISTER. Any other person desiring to be heard in connection with these proceedings, or proposing to intervene herein, shall file with the Secretary of the Commission, on or before April 1, 1944, his request or application therefor, as provided by Rule XVII of the rules of practice of the Commission.

It is further ordered, That, without limiting the scope of issues presented by said declaration or application (or both) otherwise to be considered in this proceeding, particular attention will be directed at the hearing to the following matters and questions:

(1) Whether the proposed Mortgage Bonds are reasonably adapted to the earning power and the security structure of Louisiana and are necessary and appropriate to the economical and efficient operation of the business or businesses in which Louisiana is presently engaged.

(2) Whether the fees, commissions, or other remunerations to be paid in connection with the issue, sale or distribution of said Mortgage Bonds are reasonable.

(3) Whether the terms and conditions of the issue of sale of said Mortgage Bonds are detrimental to the public interest or the interests of investors or consumers.

(4) Whether in the event the declaration shall be permitted to become effective, it is necessary to impose any terms or conditions to assure compliance with the standards of the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3861; Filed, March 18, 1944; 2:38 p. m.]

[File No. 70-857]

THE HARPERS FERRY PAPER CO. AND VIRGINIA PUBLIC SERVICE CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 17th day of March 1944.

Virginia Public Service Company, a subsidiary of a registered holding company, and its wholly-owned subsidiary, The Harpers Ferry Paper Company, having filed a joint application-declaration pursuant to sections 9, 10, and 12 of the Public Utility Holding Company Act of 1935 and rules promulgated thereunder regarding (1) the sale by The Harpers Ferry Paper Company of all its assets, consisting entirely of physical property, to a non-affiliate, Potomac Light and Power Company, for $150,000 in cash, subject to adjustments at date of closing; and (2) subsequent surrender by Virginia Public Service Company to The Harpers Ferry Paper Company of the common stock of the latter, its entire capitalization, and the assumption of its liabilities, in exchange for all of the assets, consisting entirely of cash, of The Harpers Ferry Paper Company which is thereupon to dissolve;

A public hearing having been held after appropriate notice and the Commission having considered the record and having made and filed its findings and opinion herein;

It is ordered, That said application-declaration, as amended, be, and hereby is, granted and permitted to become effective forthwith subject to the terms and conditions contained in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,

[F. R. Doc. 44-3862; Filed, March 18, 1944; 2:38 p. m.]

[File No. 70-764]

TRI-CITY UTILITIES CO., ET AL.

NOTICE OF FILING AND ORDER RECONVENING HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia 3, Pa., on the 17th day of March 1944.

In the matter of Tri-City Utilities Company, Associated Electric Company, Owensboro Gas Company, and K-T Electric and Water Company.

A joint application-declaration having been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Associated Electric Company (Aelec), a registered holding

company, and three wholly-owned subsidiaries, Tri-City Utilities Company (Tri-City), Owensboro Gas Company (Owensboro), and K-T Electric and Water Company (K-T); and

The Commission having on July 29, 1943, issued its notice of filing and order for hearing with respect to said application-declaration; and

A public hearing having been duly held in the proceedings, and the said hearing having been continued subject to call; and

The Commission having on August 14, 1943, issued its findings, opinion and order, granting the application and permitting the declaration to become effective, subject to certain conditions, by the terms of which jurisdiction was reserved over all accounting entries with respect to the transactions proposed, on the books of Aelec, K-T and Owensboro, and over the proposed accounting reorganization of Owensboro;

Notice is hereby given that amendments to the application-declaration have been filed by the parties; and

All interested persons are referred to the said application-declaration, as amended, which is on file in the office of the said Commission, for a statement of the transaction now proposed, which is summarized below:

Owensboro proposes to effect an accounting reorganization, including a reduction in the par value of its capital stock from $100 per share to $40 per share, the difference being credited to capital surplus, a restatement of its combined plant and property account, and an elimination of its earned surplus deficit by a charge to capital surplus.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to the application-declaration, as amended, and that the hearing be reconvened for the purpose of adducing further evidence:

It is ordered, That the hearing in this matter be reconvened for the purpose of adducing further evidence for the determination of the matters submitted to this Commission by said application-declaration, as amended, or as it may be hereafter amended, and for the purpose of affording further opportunity to all interested persons to be heard.

It is further ordered, That such hearing be reconvened on March 28, 1944, at 10 a. m., e. w. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such date the hearing room clerk in room 318 will advise as to the room in which such hearing will be held.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's rules of practice.

It is further ordered, That, without limiting the scope of the issues presented by said joint application-declaration, as amended, particular attention will be directed at such hearing to the matters referred to in the Commission's notice of filing and order for hearing, dated July 29, 1943, except in so far as such matters were disposed of by the Commission's order dated August 14, 1943.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 44-3863; Filed, March 18, 1944; 2:38 p.m.]

SELECTIVE SERVICE SYSTEM.

[Operations Order 29]

ALIEN LABORERS

EXEMPTION FROM SELECTIVE SERVICE REGISTRATION

Pursuant to authority contained in the Selective Training and Service Act of 1940, as amended, I hereby order:

That each native national and resident of a nation located in the Western Hemisphere who has not declared his intention to become a citizen of the United States and who has entered or hereafter enters the United States for the sole purpose of engaging in industry or agriculture under conditions prescribed by the Attorney General pursuant to arrangements between the Governments of the nation of which he is a national and the United States of America, and who has in his personal possession a valid Alien Laborer's Identification Card (Form I-100) or Woodsman Manifest (Form I-491) issued by the Immigration and Naturalization Service of the United States Department of Justice, shall not be required to present himself for and submit to registration under the Selective Training and Service Act of 1940, as amended, during the "period of admission" or extension thereof specified on such Alien Laborer's Identification Card (Form I-100) or Woodsman Manifest (Form I-491): *Provided,* That during such period of admission or extension thereof he continues in such industry or argiculture.

LEWIS B. HERSHEY, *Director.*

MARCH 17, 1944.

[F. R. Doc. 44-3864; Filed, March 18, 1944; 3:20 p. m.]

WAR FOOD ADMINISTRATION.

Office of Distribution.

WICHITA, KANS., MARKETING AREA

HANDLING OF MILK

Notice of report and opportunity to file written exceptions with respect to a proposed marketing agreement and to a proposed order regulating the handling of milk in the Wichita, Kansas, marketing area.

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Cum. Supp., 900.1-900.17; 7 F.R. 3350; 8 F.R. 2815), notice is hereby given of the filing with the hearing clerk of this report of the Director of Food Distribution, with respect to a marketing agreement and to an order regulating the handling of milk in the Wichita, Kansas, marketing area to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 *et seq.*) Interested parties may file exceptions to this report with the hearing clerk, Office of the Solicitor, Room 1331, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this notice in the FEDERAL REGISTER.

The hearing which was initiated by the Office of Distribution, following receipt of a petition by the Wichita Milk Producers' Association, was held at Wichita, Kansas, on January 12 and 13, 1944, after the issuance of notice on December 22, 1943 (8 F.R. 17313).

The major issues developed at the hearing were: (1) whether there is interstate commerce in milk in the Wichita market; (2) whether an order should be issued; (3) the extent of the marketing area; (4) the classification of milk and milk products; (5) the level of class prices and the method for determining such prices; (6) whether a base-rating plan should be included in the order; (7) the amount of the assessment for the costs of administration; and (8) the administrative provisions common to all orders.

With respect to these issues it is concluded from the record that:

1. There is interstate commerce in milk in the Wichita, Kansas, marketing area.

2. An order should be issued to regulate the handling of milk in the marketing area.

3. The marketing area should include the city of Wichita, Kansas, and the metropolitan area adjacent thereto.

4. The classification of milk as set out in the notice of hearing should be adopted, with the exception that flavored skim milk drinks containing not more than 1 percent butterfat should be classified as Class II.

5. The basic formula price proposed in the notice of hearing should be retained in the order, and Class I and Class II milk should be priced 75 cents and 50 cents respectively over the basic price. The Class III price should be as proposed in the notice of hearing.

6. A base-rating plan should be incorporated in the order.

7. The amount of the administrative assessment should not exceed 4 cents per hundredweight.

8. The administrative provisions should be essentially as set forth in the notice of hearing subject only to minor changes for purposes of clarity.

The following proposed order is recommended as the detailed means by which these conclusions may be carried out. The proposed marketing agreement is not included in this report because its provisions are identical with those set forth in the proposed order.

PROPOSED ORDER REGULATING HANDLING OF MILK IN THE WICHITA, KANSAS, MARKETING AREA

It is found upon the evidence introduced at the public hearing held in Wichita, Kansas, on January 12 and 13, 1944:

1. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which a hearing has been held; and

2. That the issuance of this order and all of the terms and conditions of the order tend to effectuate the declared policy of the act.

Provisions

SECTION 1. *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "War Food Administrator" means the War Food Administrator of the United States or any officer or employee of the United States who is or who may hereafter be authorized to exercise the powers and perform the duties, pursuant to the act, of the War Food Administrator of the United States.

(c) "Wichita, Kansas, marketing area," hereinafter referred to as the "marketing area" means all the territory within the corporate limits of the city of Wichita, Kansas, and the territory within Delano, Kechi, Minneha, Riverside, Waco, and Wichita Townships and the city of Eastborough, all in Sedgwick County, Kansas.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Producer" means any person, irrespective of whether such person is also a handler who, in conformity with the applicable health regulations of the city of Wichita, Kansas, produces milk which is received at the plant of a handler from which milk is disposed of as Class I milk or as Class II milk in the marketing area. This definition shall include any person who produces milk which a cooperative association causes to be delivered to a plant from which no milk is disposed of in the marketing area.

(f) "Handler" means any person who, on his own behalf or on behalf of others, disposes of as Class I or Class II milk in the marketing area all, or a portion of the milk purchased or received by him from (1) producers, (2) his own production, and (3) other handlers. This definition shall include a cooperative association with respect to milk which it causes to be delivered from a producer to a plant from which no milk is disposed of as Class I milk or as Class II milk in the marketing area.

(g) "Market administrator" means the person designated pursuant to section 2 as the agency for the administration hereof.

(h) "Delivery period" means the then current marketing period from the first to, and including, the last day of each month.

(i) "Cooperative association" means any cooperative association of producers which the War Food Administrator determines (1) to have its entire activities under the control of its members, and (2) to have and to be exercising full authority in the sale of milk of its members.

SEC. 2. *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the War Food Administrator. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the War Food Administrator.

(b) *Powers.* The market administrator shall: (1) administer the terms and provisions hereof; and (2) report to the War Food Administrator complaints of violation of the provisions hereof.

(c) *Duties.* The market adminstrator shall:

(1) Within 45 days following the date upon which he enters upon his duties execute and deliver to the War Food Administrator a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the War Food Administrator;

(2) Pay out of the funds provided by section 11 hereof the cost of his bond, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for herein and surrender the same to his successor or to such other person as the War Food Administrator may designate;

(4) Publicly disclose to handlers and producers, unless otherwise directed by the War Food Administrator, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to section 5 or (ii) made payments pursuant to section 8; and

(5) Promptly verify the information contained in the reports submitted by handlers.

SEC. 3. *Classification of milk*—(a) *Basis of classification.* All milk and milk products purchased or received by each handler, including milk of a producer which a cooperative association causes to be delivered to a plant from which no milk is disposed of as Class I milk or Class II milk in the marketing area, shall be reported by the handler in the classes set forth in (b) of this section: *Provided,* That (i) milk sold or disposed of by a handler as fluid milk to a nonhandler who distributes fluid milk or cream shall be classified as Class I milk, and cream sold or disposed of by a handler as cream to such nonhandler shall be classified as Class II milk; (ii) milk or cream sold or disposed of by a handler to a nonhandler who does not distribute fluid milk or cream shall be classified as Class III milk subject to verification by the market administrator; (iii) milk sold or disposed of as fluid milk by a handler who purchases or receives milk from producers to another handler shall be classified as Class I milk: *Provided,* That if such milk, except milk sold or disposed of by such handler to another handler who purchases or receives no milk from producers, is reported by the receiving handler or by the disposing handler as having been utilized as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator; (iv) cream sold or disposed of as fluid cream by a handler who purchases or receives milk from producers to another handler shall be classified as Class II milk: *Provided,* That if such cream, sold or disposed of by such handler to another handler who purchases or receives no milk from producers, is reported by the receiving handler or by the disposing handler as having been utilized as Class III milk, such cream shall be classified accordingly, subject to verification by the market administrator; and (v) milk or cream sold or disposed of by a handler who receives no milk from producers to another handler who receives milk from producers shall be classified in the lowest use classification of the purchasing handler.

(b) *Classes of utilization.* Subject to the conditions set forth in (a) of this section the classes of utilization shall be as follows:

(1) Class I milk shall be all milk and skim milk disposed of in the form of milk and buttermilk or in the form of flavored milk drinks containing more than 1 percent butterfat and all milk not specifically accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all milk used to produce cream (for consumption as cream, including any cream product in fluid form which contains 6 percent or more butterfat), creamed cottage cheese, aerated cream, eggnog, and flavored milk drinks containing not more than 1 percent butterfat.

(3) Class III milk shall be all milk specifically accounted for (i) as used to produce a milk product other than those specified in Class II milk and (ii) as actual plant shrinkage but not to exceed 3 percent of the total receipts of milk from producers.

(c) *Responsibility of handlers in establishing the classification of milk.* In establishing the classification as required in (b) of this section, of any milk received by a handler from producers, the burden rests upon the handler who receives the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

(d) *Computation of milk in each class.* For each delivery period each handler shall compute, in the manner and on forms prescribed by the market administrator, the amount of milk in each class as defined in (b) of this section, as follows:

(1) Determine the total pounds of milk received as follows: add together the total pounds of milk received from (i) producers, (ii) own farm production, (iii) other handlers, and (iv) other sources.

(2) Determine the total pounds of butterfat received as follows: (i) multiply by its average butterfat test the weight of the milk received from (*a*) producers, (*b*) own farm production, (*c*) other handlers, and (*d*) other sources, and (ii) add together the resulting amounts.

(3) Determine the total pounds of milk in Class I as follows: (i) convert to pounds the quantity of Class I milk on the basis of 2.15 pounds per quart, (ii) multiply the result by the average butterfat test of such milk, and (iii) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk, computed pursuant to (4) (ii) and (5) (iv) of this paragraph is less than the total pounds of butterfat received computed in accordance with (2) of this paragraph, an amount equal to the difference shall be divided by 3.8 percent and added to the quantity of milk determined pursuant to (i) of this subparagraph.

(4) Determine the total pounds of milk in Class II as follows: (i) multiply the actual weight of each of the several products of Class II milk by its average butterfat test, (ii) add together the resulting amounts, and (iii) divide the result obtained in (ii) of this subparagraph by 3.8 percent.

(5) Determine the total pounds of milk in Class III as follows: (i) multiply the actual weight of each of the several products of Class III by its average butterfat test, (ii) add together the resulting amounts, (iii) subtract from the total pounds of butterfat computed pursuant to (2) of this paragraph the total pounds of butterfat in Class I milk, computed pursuant to (3) (ii) of this paragraph, the total pounds of butterfat in Class II milk, computed pursuant to (4) (ii) of this paragraph and the total pounds of butterfat computed pursuant to (ii) of this subparagraph which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed 3 percent of the total receipts of butterfat from producers by the handler, (iv) add together the results obtained in (ii) and (iii) of this subparagraph, and (v) divide the results obtained in (iv) of this subparagraph by 3.8 percent.

(6) Determine the classification of milk received from producers as follows:

(i) Subtract from the total pounds of milk in each class the pounds of milk which were received from other handlers and used in such class.

(ii) Subtract from the remaining pounds of milk in each class the pounds of milk which were received from sources other than producers, own farm production, and other handlers in series beginning with the lowest class.

(iii) Subtract pro rata from the remaining pounds of milk in each class the total pounds of milk which were received from the handler's own farm production.

(e) *Reconciliation of utilization of milk by classes with receipts of milk from producers.* In the event of a difference between the total quantity of milk used in the several classes as computed pursuant to (d) (6) of this section and the quantity of milk received from producers, except for excess milk or milk equivalent of butterfat pursuant to section 6 (d), such difference shall be reconciled as follows:

(1) If the total utilization of milk in the various classes for any handler, as computed pursuant to (d) (6) of this section, is less than the receipts of milk from producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

(2) If the total utilization of milk in the various classes for any handler, as computed pursuant to (d) (6) of this section, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts from producers and the total utilization of milk by classes for such handler.

SEC. 4 *Minimum prices*—(a) *Class prices.* Subject to the differentials set forth in (c) and (d) of this section each handler shall pay producers, at the time and in the manner set forth in section 8 for milk purchased or received from them, not less than the following prices:

(1) *Class I milk.* The price per hundredweight of Class I milk during each delivery period shall be the price determined pursuant to (b) of this section plus 75 cents.

(2) *Class II milk.* The price per hundredweight of Class II milk during each delivery period shall be the price determined pursuant to (b) of this section plus 50 cents.

(3) *Class III milk.* The price per hundredweight of Class III milk during each delivery period shall be the highest price paid for ungraded milk containing 3.8 percent butterfat during the delivery period by any of the following: DeCoursey Cream Company at its plants at Wichita or Anthony, Kansas; the Central Kansas Cooperative Creamery Association at its plant at Hillsboro, Kansas; or the Arkansas City Cooperative Milk Association at its plant at Arkansas City, Kansas.

(b) *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price to be used in determining the Class I and Class II prices, set forth in this section, per hundredweight of milk as computed and announced by the market administrator on or before the 5th day of the delivery period, shall be the arithmetical average of the prices per hundredweight reported to the United States Department of Agriculture as being paid all farmers for milk of 3.5 percent butterfat content during the immediately preceding delivery period at the following plants and places:

Borden Company, Mt. Pleasant, Mich.
Carnation Company, Sparta, Mich.
Pet Milk Company, Hudson, Mich.
Pet Milk Company, Wayland, Mich.
Pet Milk Company, Coopersville, Mich.
Borden Company, Greenville, Wis.
Borden Company, Black Creek, Wis.
Borden Company, New London, Wis.
Borden Company, Orfordville, Wis.
Carnation Company, Chilton, Wis.
Carnation Company, Berlin, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Oconomowoc, Wis.
Carnation Company, Jefferson, Wis.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, West Bend, Wis.

divided by 3.5 and multiplied by 3.8, but in no event shall such basic formula price to be used be less than the Class III price computed pursuant to (a) (3) of this paragraph.

(c) *Emergency price provisions.* (1) Whenever the War Food Administrator finds and announces that the Class I price computed for any delivery period pursuant to (a) of this section is not in the pubic interest, the Class I price for such delivery period shall be the same as the Class I price for the preceding delivery period: *Provided,* That if the War Food Administrator for two consecutive delivery periods finds and announces that the Class I price computed pursuant to (a) of this section is not in the public interest, he shall, upon request of interested parties, and pursuant to the applicable provisions of the act, issue notice of and opportunity for a hearing upon a proposed amendment to this section of the order.

(2) Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy, or other similar payment being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided,* That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any subsidy or other similar payment: *Provided further,* That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the War Food Administrator determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the War Food Administrator to be equivalent to or comparable with the prices specified.

SEC. 5. *Reports of handlers*—(a) *Periodic reports.* On or before the 5th day after the end of each delivery period each handler who purchased or received milk from sources other than his own production or other handlers shall, with respect to milk or dairy products which were purchased, received, or produced by such handler during such delivery period, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(1) The receipts at each plant of milk from each producer, the butterfat content, and the number of days on which milk was received from each producer;

(2) The receipts from such handler's own farm production and the butterfat content;

(3) The receipts of milk, cream, and milk products from handlers who purchase or receive milk from producers and the butterfat content;

(4) The receipts of milk, cream, and milk products from any other source and the butterfat content;

(5) The respective quantities of milk and milk products and the butterfat content which were sold, distributed, or used, including sales to other handlers for the purpose of classification pursuant to section 3; and

(6) Such other information with respect to the use of the milk as the market administrator may request.

(b) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, upon the request of the market administrator, each handler who purchased or received milk from producers shall submit to the market administrator his producer pay roll for such delivery period which shall show for each producer: (1) his total deliveries of base milk and total deliveries of milk in excess of base milk, (2) the average butterfat content of his milk, and (3) the net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

(c) *Reports of handlers whose sole source of supply is from such handler's own farm production or from other handlers.* Handlers whose sole source of supply is from such handler's own farm production or from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(d) *Verification of reports and payments.* The market administrator shall verify all reports and payments of such handler by audit of such handler's records and of the records of any other handler or persons upon whose disposition of milk the classification depends. Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to:

(1) Verify the receipts and disposition of all milk and milk products, and in case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample, and test for butterfat content the milk purchased or received from producers and any product of milk upon which classification depends; and

(3) Verify the payments to producers prescribed in section 8.

SEC. 6. *Application of provisions.* (a) The provisions of sections 3, 7, 8, 9, 10, and 11 shall not apply to a handler whose sole source of supply is from such handler's own farm production or from other handlers.

(b) If a handler who purchases or receives milk from producers, purchases or receives milk or cream in bulk from another handler who purchases or receives no milk from producers and sells or disposes of such milk or cream for other than Class III purposes, the market administrator, in determining the net pool obligation of the handler, pursuant to section 7 (a) shall add an amount equal to the difference between (1) the value of such milk or cream according to its utilization by the handler and (2) the value at the Class III price.

(c) If a handler has sold or disposed of milk or cream which was received from sources other than producers, his own farm production, or other handlers as Class I or Class II milk within the marketing area to persons other than a handler who purchases or receives milk from producers, the market administrator, in determining the net pool obligation of the handler, pursuant to section 7, shall add an amount equal to the difference between (1) the value of such milk according to its utilization by the handler and (2) the value at the Class III price.

(d) If a handler has purchased or received milk or butterfat from sources determined as other than producer, own farm production, or other handlers, the market administrator, in determining the net pool obligation of the handler pursuant to section 7, shall consider such milk or the milk equivalent of such butterfat as Class III milk. If the receiving handler sells or disposes of such milk or butterfat for other than Class III purposes, the market administrator shall add an amount equal to the difference between (1) the value of such milk or butterfat according to its utilization by the handler and (2) the value at the Class III price.

(e) The provisions of (b) (c) and (d) above shall not apply if the handler can prove to the market administrator that such milk or butterfat was used only to the extent that milk of producers was not available.

(f) If a handler, after subtracting receipts from his own farm production, receipts from other handlers, and receipts from sources determined as other than producers, own farm production, or other handlers, has disposed of milk and/or butterfat in excess of the milk and/or butterfat which, on the basis of his reports, has been credited to his producers as having been delivered by them, the market administrator, in determining the net pool obligation of the handler, pursuant to section 7, shall add an amount equal to the value of such milk and/or butterfat according to its utilization by the handler.

SEC. 7. *Determination of uniform price to producers*—(a) *Net pool obligations of handlers.* The net pool obligation of each handler for milk received from producers during each delivery period shall be a sum of money computed for such delivery period by the market administrator as follows: multiply the pounds of milk in each class computed pursuant to section 3 (d) by the class price pursuant to section 4 (a), add together the resulting values, and add the value of any payments required to be made pursuant to section 6.

(b) *Computation and announcement of the uniform price.* For each delivery period the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the net pool obligations of all handlers computed pursuant to (a) of this section who made the reports prescribed by section 5 and who made the payments prescribed by section 8;

(2) Add an amount equal to one-half of the cash balance in the producer-settlement fund less the amount due handlers pursuant to section 8 (g);

(3) Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers.

(4) Compute the total quantity of milk which represents the delivered bases of producers and which is included in the computation made pursuant to (a) of this section.

(5) Compute the total value of the milk which is in excess of the delivered bases of producers determined pursuant to (4) of this paragraph and which is included in the computation pursuant to (a) of this section, by multiplying such quantity of milk by the Class III price.

(6) Compute the total value of the milk represented by the delivered bases of producers by subtracting the value obtained in (5) of this paragraph from the value obtained in (1) of this paragraph.

(7) Divide the result obtained in (6) of this paragraph by the quantity of milk represented by the delivered bases of producers as determined in (4) of this paragraph. This result shall be known as the uniform price per hundredweight for such delivery period for base milk of producers containing a 3.8 percent butterfat.

(8) On or before the 8th day after the end of each delivery period notify all handlers and make public announcement of these computations, of the uniform price per hundredweight of base milk, computed pursuant to this paragraph, and of the Class I, Class II, and Class III prices computed pursuant to section 4.

SEC. 8. *Payments for milk*—(a) *Time and method of payment.* On or before the 10th day after the end of each delivery period each handler shall make payment, after deducting the amount of the payment made pursuant to (b) of this section, subject to the butterfat differential set forth in (c) of this section, for milk purchased or received from producers by such handler during each delivery period as follows:

(1) To each producer, except as set forth in subparagraph (3) of this paragraph, not less than the uniform price per hundredweight computed pursuant to section 7 (b) for that quantity of milk received from such producer not in excess of such producer's base;

(2) To each producer, except as set forth in subparagraph (3) of this paragraph, not less than the Class III price for that quantity of milk received from

such producer in excess of such producer's base; and

(3) To a cooperative association for milk which it caused to be delivered to a handler from producers and for which such cooperative association collects payments, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under subparagraph (1) of this paragraph.

(b) *Half delivery period payments.* On or before the 25th day of each delivery period, each handler shall make payment to each producer for the approximate value of the milk of such producer which, during the first 15 days of such delivery period, was received by such handler.

(c) *Butterfat differential.* If, during the delivery period, any handler has purchased or received from any producer milk having an average butterfat content other than 3.8 percent, such handler in making the payments prescribed in (a) of this section, shall add to the prices per hundredweight for such producers for each one-tenth of 1 percent of average butterfat content in milk above 3.8 percent not less than, or shall subtract from such prices for such producer for each one-tenth of 1 percent of average butterfat content in milk below 3.8 percent not more than, an amount computed as follows: to the average price of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture (or such other Federal agency as may hereafter be authorized to perform this price reporting function) for the delivery period during which such milk was received, add 20 percent and divide the resulting sum by 10.

(d) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to (e) and (g) of this section and out of which he shall make all payments to handlers pursuant to (f) and (g) of this section: *Provided,* That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each delivery period, the market administrator shall compute the amount by which each handler's net pool obligation, including the payments to producers which are required to be made pursuant to section 6 is greater or less than the sum obtained by multiplying the hundredweight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to (a) of this section and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

(e) *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the net pool obligation of such handler including the payments required to be made pursuant to section 6 is greater than the sum required to be paid producers by such handler pursuant to (a) (1) and (2) of this section.

(f) *Payments out of the producer-settlement fund.* (1) On or before the 10th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to (a) (1) and (2) of this section is greater than the net pool obligation of such handler, including the payments required to be made pursuant to section 6.

(2) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 10th day after the end of the delivery period, has not received the balance of such reduced payment from the market administrator, shall be deemed to be in violation of (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(g) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to the producer-settlement fund made pursuant to (d) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to (f) of this section, the market administrator shall, within 5 days, make payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure.

SEC. 9. *Base rating*—(a) *Determination of base.* The base of each producer, who is not also a handler, shall be a quantity of milk for each delivery period calculated by the market administrator in the following manner: multiply the applicable figure computed pursuant to (b) of this section by the number of days for which such producer's milk was delivered during the delivery period: *Provided,* That, if during any delivery period the total milk not in excess of base, delivered by all producers does not equal 105 percent of Class I and Class II sales for the delivery period, the market administrator shall add thereto as emergency base, in the case of each producer who delivered milk in excess of his base the percent of his excess milk which is the percent of his total excess milk needed to bring total base deliveries up to approximately 110 percent of Class I and Class II sales.

(b) *Determination of daily base.* (1) Effective for the calendar quarter ending (end of first quarter under order) the daily base of each producer shall be the daily base of such producer on record in the office of the market administrator under the Amended License for Milk No. 44, Wichita, Kansas, Sales Area, issued by the Secretary of Agriculture August 14, 1935. If no such base is on record for any producer who is not also a handler, the market administrator shall determine a base for such producer in the manner provided in (3) of this paragraph.

(2) For each calendar quarter subsequent to (and of first quarter under order) the daily base of each producer shall be an amount calculated by the market administrator as follows: (i) divide the total milk, not in excess of his base, delivered by each producer during the next preceding calendar quarter by the number of days in that quarter and (ii) if the total of the figures so calculated for all producers is not equal to 110 percent of the total sales of Class I and Class II milk by all handlers during that quarter, add to the figure for each producer an equal amount sufficient to bring the total to 110 percent of the total sales of Class I and Class II milk.

(3) In the case of a producer who resumes delivery after not having marketed milk to a handler for a period of more than 30 consecutive days or for whom there is no base on record in the office of the market administrator, a base shall be allotted in the following manner: for each delivery period from the date upon which such producer first markets milk to a handler until the conclusion of one full calendar quarter, the market administrator shall multiply such producer's daily average deliveries of milk by the percentage that base deliveries were to total deliveries to the market during the delivery period by all base holding producers on the market. After the conclusion of one full calendar quarter, the market administrator shall determine a base for such producer in accordance with (2) of this paragraph.

(4) In the case of a producer who is also a handler and who disposes of all of his delivery routes to another handler who is not a producer, the market administrator shall determine the daily average of the total sales of Class I milk and Class II milk by such producer during the preceding 8 months. The figure thus determined shall be such producer's base from the date of such determination until the end of the calendar quarter next following. Thereafter the base of such producer shall be determined in accordance with (2) of this paragraph.

(c) *Base rules.* (1) Any producer who ceases to deliver milk to a handler for a period of more than 30 consecutive days shall forfeit his base. In the event such producer thereafter commences to deliver milk to a handler he shall be allotted a daily base computed in the manner provided in (b) (3) of this section.

(2) A landlord who rents on a share basis shall be entitled to the entire daily

base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire daily base to the exclusion of the landlord if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(3) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided,* That at the beginning of a tenant and landlord relationship the base of each landlord and tenant may be combined and may be divided when such relationship is terminated.

(4) Base may be transferred only under the following conditions: (i) in case of the death of a producer, his base may be transferred to a surviving member or members of his family who carry on the dairy operations, and (ii) on the retirement of a producer, his base may be transferred to an immediate member of his family who carries on the dairy operations.

(5) Any producer desiring to earn a new base may do so by notifying the market administrator that he is relinquishing his base at the beginning of the delivery period next following. In such case all milk delivered by such producer during the next 2 full calendar months shall be considered as milk in excess of base. At the end of 2 months a new base shall be allotted by the market administrator computed in the manner provided in (b) (3) of this section.

SEC. 10. *Marketing service*—(a) *Deduction for marketing service.* Except as set forth in (b) of this section each handler shall deduct 4 cents per hundredweight from the payments made to each producer pursuant to section 8 (a) (1) and (a) (2) with respect to all milk of such producer purchased or received by such handler during the delivery period, and shall pay such deductions to the market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from said producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association, which the War Food Administrator determines to be qualified under the provisions of the act of Congress of February 18, 1922, is performing the services set forth in (a) of this section, each handler shall make the deductions from the payments to be made pursuant to sections 8 (a) (1) and (a) (2), which are authorized by such producers, and, on or before the 10th day after the end of each delivery period, pay over such deductions to the associations of which such producers are members.

SEC. 11. *Expenses of administration.* As his prorata share of the expenses of the administration hereof, each handler who purchased or received milk from producers, with respect to all milk received from producers during the delivery period, shall pay to the market administrator, on or before the 10th day after the end of such delivery period, an amount not exceeding 4 cents per hundredweight, which amount shall be determined by the market administrator subject to review by the War Food Administrator.

SEC. 12. *Effective time, suspension, or termination*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the War Food Administrator may declare and shall continue in force until suspended, or terminated, pursuant to (b) of this section.

(b) *Suspension or termination.* Any or all of the provisions hereof, or any amendment hereto, may be suspended or terminated as to any or all handlers after such reasonable notice as the War Food Administrator shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all provisions hereof there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the War Food Administrator so directs, be performed by such other person, persons, or agency as the War Food Administrator may designate.

(2) The market administrator, or such other person as the War Food Administrator may designate, shal (i) continue in such capacity until removed, (ii) from time to time account for all receipts and disbursements and when so directed by the War Food Administrator deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the War Food Administrator shall direct, and (iii) if so directed by the War Food Administrator execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the War Food Administrator may designate, shall, if so directed by the War Food Administrator, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

SEC. 13. *Agents.* The War Food Administrator may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

This report filed at Washington, D. C., this 13th day of March 1944.

C. W. KITCHEN,
Acting Director of Food Distribution.

[F. R. Doc. 44-3885; Filed, March 18, 1944; 3:14 p. m.]

GREATER BOSTON, MASS., MARKETING AREA

HANDLING OF MILK

Notice of report and opportunity to file written exceptions with respect to a proposed marketing agreement and to a proposed amendment to the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area.

Pursuant to § 900.12 (a) of the rules of practice and procedure (7 CFR, Cum. Supp., 900.1-900.17; 7 F.R. 3350; 8 F.R. 2315), Food Distribution Administration, War Food Administration, notice is hereby given of the filing with the hearing clerk of this report of the Director of Food Distribution, with respect to a marketing agreement and to amendment of the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Interested parties may file exceptions to this report with the Hearing Clerk, Room 1331, Department of Agriculture, Washington, D. C., not later than the close of business on the 10th day after publication of this notice in the FEDERAL REGISTER.

The proceeding was initiated by the Food Distribution Administration (now Office of Distribution) as a result of petitions filed by 12 producers' cooperatives for a public hearing to receive evidence on a proposal to increase the price for Class I milk. The proposals of two of the 12 cooperatives also included a request for an increase in Class II price. The hearing notice also included suggested amendments of several Boston milk handlers and of the Dairy and Poultry Branch, Office of Distribution. It was concluded from consideration of the various proposals submitted that a hearing should be held and a hearing was held at Boston, Massachusetts, on September 23 and 24, following issuance of notice on September 15, 1943.

The issues developed at the hearing concerned: (1) an increase in the Class I price; (2) elimination of price quotations for casein and animal feed skim milk powder from the Class II price formula; (3) revision of the order from a market-wide to an individual-handler type of pool, either continuously or for the months of October, November, and December only; (4) pooling of transportation and plant handling costs; (5) a ceiling for the butterfat differential; (6) revision of the so-called transfer provisions, including elimination of the present optional features; (7) revision

from 33.48 to 33.0 of the factor in the Class II formula for converting the price per 40-quart can of cream of 40 percent butterfat content to milk equivalent; (8) provision in the case of a plant from which shipment of milk to the market is discontinued, that the order shall apply to handling operations at such plants for 90 days after shipments have been discontinued; and (9) the adoption of minor changes of an administrative nature.

With respect to these issues, it is concluded that the following changes should be made:

1. In the Class II price formula, skim milk manufactured into casein during April, May, and June should be priced separately at the present casein formula in the order.

A separate price on skim milk made into casein during April, May, and June recognizes the fact, as pointed out at the hearing by industry witnesses, that some casein manufacture is needed during the flush production season when volume of Class II skim milk exceeds the capacity of available facilities for making other products. The proposed change will protect handlers who are unable to avoid making casein from sustaining a loss on the operation, and it will also prevent the price for the remaining Class II milk from being depressed by low casein values.

This amendment would raise the Class II regular price 8.3¢ per hundredweight during April, May, and June, on the basis of price relationships existing in September, 1943.

The record also shows that animal feed powder, which is given a weight of 50 percent in the formula, has become an insignificant factor in the milk powder industry in this region, with production at such a low level that the Market News Division of the Department has found no carlot sales to report since September, 1941. The price equivalent of animal feed powder is less than other powder prices in an amount greater than normal. On the basis of this information it might seem that the animal feed powder price should be given a lesser weight or eliminated from the formula, as proposed by various parties, and thereby increase the Class II skim milk value. However, the area in which milk powder is manufactured in this milkshed is adjacent to and overlaps a part of the New York supply area in which is located powder facilities which in past years have absorbed a substantial proportion of the Class II skim milk in the Boston pool. At present, the price formulas for manufactured skim milk under both the Boston and New York Orders are the same. Any upward adjustment in the Boston value without a similar adjustment in the New York value would discourage New York handlers with powder-making facilities from absorbing the Boston milk. In addition, several companies engaged in manufacturing cottage, pot, bakers', Italian, and Greek chesses, who now purchase larger quantities of surplus skim milk from Boston handlers would be encouraged to shift to the New York supply for their raw products. Until it can be shown that other manufacturing facilities are available to handle such displaced milk it seems inadvisable to disturb the present relationship between New York and Boston fluid skim values.

2. Provision should be made for temporarily pricing to handlers all butterfat which may be manufactured into butter or Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese or part-skim Cheddar cheese at the cream value now provided in § 904.6 (b) (3 of the order. For butter manufactured from milk of a butterfat content in excess of 3.7%, the order now requires a handler to pay 69¢ per pound for the butterfat in excess of 3.7% compared to a value of 50.1¢ reflected by the regular butter price formula. In addition, a handler must pay the regular Class II price for milk manufactured into Cheddar cheese. For September, 1943, this was $2.886 per hundredweight compared to $2.295 for the Cheddar cheese class under the New York Order. The higher rate is clearly prohibitory.

The large difference between the butterfat value in the butter price formula and the butterfat differential value is caused by an abnormally high price for cream in the wholesale market at Boston, relative to butter prices. Adjustment of the latter value as it applies to butterfat made into butter is needed to prevent inequity between handlers. While a ceiling on the butterfat differential generally which was proposed is not recommended, an adjustment in its application to milk made into butter is needed.

A price adjustment to give handlers an opportunity to manufacture Cheddar cheese is needed to provide an additional outlet for skim milk solids, particularly in a product of which more production is needed for the war effort, which may be desirable in this milkshed to offset the limitations on skim milk outlets imposed by Food Distribution Orders Numbered 79 and 92. The record shows, in connection with proposed changes in the Class II skim value, a general uncertainty among handlers as to the manufacturing opportunities in 1944 due to Government restriction and limitation orders. One witness representing producers recommended that, in light of such limitations, a survey be conducted to determine remaining available facilities as a basis for providing price formulas which will enable handlers to utilize such facilities without incurring substantial losses. The recommended amendment with respect to price on milk manufactured into Cheddar cheese is based on such a survey which shows, among other things, that a few plants in the Boston milkshed have facilities for making Cheddar cheese. The price provision provided for Cheddar cheese represents a value comparable to the price of a similar class of milk under the New York Order, but it is drafted in such a way that it causes no inconsistency with the basic price structure under the Boston Order which provides for only a single butterfat differential.

3. Minor revisions should be made for administrative purposes.

The following conclusions are with respect to issues, concerning which no changes are proposed:

1. No increase is proposed for the Class I price as changes in production costs are now reflected, within the framework of the "hold the line" program announced in March, 1943, by the Director of Economic Stabilization, by the dairy feed payment program. Revision of Class I prices named in the order must await resolution by appropriate authorities of the method to be used to reflect returns to producers which will be adequate to encourage them to maintain the desired level of milk production during 1944.

2. Evidence supporting a change from the present market-wide pool to the individual-handler type of pool is inconclusive. One group of handlers proposed this type of pool as a continuous proposition, two other handlers proposed it on a seasonal basis, one other handler, a cooperative, maintained that the change would be detrimental to its producers. Such a change would be a fundamental revision in this regulation, introducing new incentives in marketing practices of major degree. The impact of such incentives were sketched in no more than a fragmentary manner by the proponents of the change. In the absence of more detailed analysis of the probable effects of such a change which indicates distinct advantages over the present system, or conclusive evidence of fundamental defects in the present system, adoption of the individual-handler type of pool seems inadvisable.

3. Pooling of transportation and plant handling costs would allow handlers with relatively inefficient milk assembly operations to deduct more from the producer's price, to reflect the added cost to handlers and service to producers of milk-receiving plants located at country points, than would be allowed in the case of other handlers with relatively efficient milk assembly operations. This would lessen any incentive to improve efficiency of plant operations which, in the long run, would be disadvantageous to producers, handlers, and the general public. This does not mean that there is no place for small volume plants in the milkshed; on the contrary they offer a real economic advantage in some situations, such as providing the one outlet for milk in an isolated area. This situation is now recognized in the order through permissive deductions, from producers who deliver milk to small plants, to reflect the added cost of shipping milk in quantities smaller than railroad or truck tank loads. This problem is well stated in the brief filed jointly by five of the principal cooperatives in this market in connection with a hearing on a similar proposal made at a hearing held in January 1942, as follows: "If competitive conditions do not allow the handler in certain cases to take this deduction, it is evidence that the small volume operation has no economic justification."

The proponents of the pooling of transportation and plant handling costs also proposed that sales of fluid milk by a handler who had already purchased it

from another handler be allowed as Class II for manufacturing purposes. In other words, to permit a handler the privilege of having a given lot of milk traced from the first to the second to the third person who handled it to establish the disposition of the milk. In verifying the utilization of milk by handlers it is usually impossible to trace a given lot of milk to its ultimate use if it passes through the plants of several handlers. It is common for a handler to intermingle milk of several sources; thus identity is lost if the same milk is handled by more than one handler. Administrative experience has shown that in this market limiting the tracing of milk to the second of the various handlers who may have possession of the same milk before it is ultimately disposed of is necessary to prevent endless administrative detail in verifying use of milk for classification purposes, and provides equity among handlers. A case for exception to this rule must show that it has caused a handler to suffer unreasonable hardship. The proponents of a change have shown only two cases for the record to demonstrate the disadvantages of the present provision, neither of which shows real hardship. In one case, the handler is the second handler of the milk only by virtue of his marketing practices in which a separate corporation is maintained for operating a milk-receiving station in the milk-producing area, as an exclusive supply for another corporation distributing milk in the marketing area. The plan is typical of several similar plans. In such a situation the present provision is needed to prevent mushrooming of the corporate structure of milk distribution systems from hampering efficient administration of the order.

The other case involves the possibility of gaining a lower transportation rate by having a tank truck filled to capacity rather than being partially filled, if the handler is able to use this extra milk to participate in the Class II market in the marketing area. The order is designed to encourage the manufacture of surplus milk as near the source of production as possible to economize on transportation, and thereby provides a transportation allowance on Class II milk of the cost of shipping cream. Any handler who ships fluid milk to Boston from country plants for Class II purposes must himself bear the added transportation cost which is the difference between the tariff on cream and that of the milk equivalent of the cream. Thus the case cited is not a hardship in such a marketing system.

4. A ceiling on the butterfat differential as applied to producers would be inconsistent with the principle upon which it is based, in this order, which is the competitive value of butterfat in cream on the open market. Under this system, the differential has at times been relatively low, and at other times, as at present, relatively high. Both extremes are necessary to reflect full value to producers in the long run. Adoption of the requested ceiling of 5 cents per point of butterfat would therefore be incomplete without adoption of a floor also. This would result in a complete change in the basis of the differential, and no such complete change was requested.

5. Revision of the requested transfer provisions, and adoption of the requested 90-day rule, which are related aspects of the order, should not be changed at present for lack of conclusive evidence as to the changes which are needed. Involved is the question of the obligations, or privilege of various types of handlers to share the market-wide pool and the degree of such sharing required in various circumstances. From time to time various plants have been withdrawn or added to the pool with wide difference of opinion among handlers and producer groups as to the ethics or justification for such action. Further analysis and more evidence on this problem is needed.

6. With respect to the requested revision from 33.48 to 33.0 in the factor in the Class II formula for converting the price per 40-quart can of cream of 40 percent butterfat content to milk equivalent, the evidence in favor of the change is inconclusive. It is clear that a factor of 33 is in common use in the cream market for determining the price of cream on the open market, but it is not clear that the same factor is the closest approximation to the pounds of butterfat in a 40-quart can of cream of 40 percent butterfat content, the purpose for which it is generally understood that the factor is used. For this purpose, the evidence fails to show a more equitable factor than the present one of 33.48.

In addition to the proposed amendments heard at the hearing held on September 23 and 24, 1943, this report covers two points considered at hearings held September 24, 1942, at Burlington, Vermont, and September 28, 1942, at Boston, Massachusetts, with respect to which no conclusions were drawn in the report covering other proposals considered at that hearing which was issued December 28, 1942. The previous report stated "On . . . revison of . . . payments to cooperatives . . . and receiving plant handling allowances on both Class I and Class II milk, the record has not yet been completely analyzed. The evidence indicates that these points in the order are interrelated. In the present war emergency, maintenance of an adequate level of milk production and conservation of manpower, gasoline, rubber, and strategic materials needs to be accomplished by improving efficiency in the assembly and transportation of milk to market. Some revision of these points to increase returns to producers should be made as an aid to maintaining production and accomplishment of more efficient use of existing handling and transportation facilities, either through this order itself or in conjunction with other wartime conservation programs that may be developed. In order to avoid undue delay of other needed changes, recommendation of further revision of these points is reserved until after a thorough examination of the evidence has been made."

It is now concluded that no changes concerning these points should be made on the basis of the evidence at the hearing of September, 1942. That hearing includes testimony designed to show that plant handling allowances should be increased and other testimony designed to show that such allowances should be decreased. With respect to payments to cooperatives from the market-wide pool the proposed change was an elimination of this feature from the order. There is much testimony both for and against such a change.

The present plan of payments to cooperatives, which became effective August 1, 1941, was based on the consideration that to achieve the benefits to all producers which the order is designed to provide two types of activity by producers' cooparative marketing organizations are desirable: (1) presentation of evidence at hearings concerning the needs of producers with respect to prices for milk and differentials to reflect handling costs to furnish an adequate basis for constructive amendments to the order, and (2) assumption of responsibility for a reserve of milk to meet the irregular needs of distributors which is essential in a market which provides market-wide equalization among all producers of the total value of the milk. Further, it is recognized that allowances for costs associated with providing services to the market should be separated from the allowance which reflects the additional cost of receiving milk at country plants compared to receiving it directly at city plants. From these considerations it was concluded that provision for payments to cooperative associations is considered necessary to equitably apportion the total value of milk among producers. The testimony in support of the proposal to completely eliminate this feature of the order does not show that these considerations were substantially erroneous.

With respect to the need for revision of these features of the order to increase return to producers, as indicated in the previous report referred to herein, examination of the evidence in the record of the hearing of September, 1942, does not indicate clearly the nature of the changes that should be made to accomplish the desired result. In addition, abnormal marketing conditions, caused by limited facilities for handling milk resulting from shortages of strategic materials and a supply of milk which was sufficiently less than demand during the low point in the seasonal pattern of production in 1943, to occasion a program of allocation of the short supply to avoid an unevenness of supply among handlers, have resulted in changes in the structure of the assembly phase of this milk market which are sufficient to require examination of further evidence before the nature of constructive revisions to the order can be determined.

The following operating provisions of a proposed order amending the order, as amended, are recommended as the detailed means by which these conclusions may be carried out. A proposed marketing agreement is not included in this report because the proposed amendments applicable to it would be the same as those set forth below with respect to the order, as amended.

PROPOSED AMENDMENT TO ORDER, AS AMENDED, REGULATING HANDLING OF MILK IN GREATER BOSTON, MASSACHUSETTS, MARKETING AREA

Provisions

1. Revise § 904.3 (a) (9) to read as follows:

The "delivery period" means the current marketing period from the first to and including the last day of each month.

2. In § 904.6 (a) (3) revise the last clause to read as follows:

* * * and then that milk, including skim milk and buttermilk, which was shipped from the nearest plant located more than 40 miles from the State House in Boston, including milk received at such plant pursuant to § 904.8 (b).

3. In § 904.6 (b) (2) (iii) delete the words "* * * except April, May, and June," and delete § 904.6 (b) (2) (iv).

4. Add two new paragraphs to § 904.6 as follows:

(e) *Butter and cheese adjustment.* For the duration of effect of Food Distribution Orders Numbered 8, 13, 79, and 92, including amendments thereto or other similar orders supplementing or superseding such orders, in lieu of application of § 904.6 (b) (3), in the case of butterfat made into butter, Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part skim Cheddar cheese, during April to September, inclusive, of each year, the value of a handlers milk computed pursuant to § 904.9 (a) shall be adjusted by a value computed for such delivery period as follows:

(1) From the average price reported by the United States Department of Agriculture for 92 score butter at wholesale in the New York market, deduct .5 cents and add 20 percent;

(2) Divide the value determined pursuant to § 904.6 (b) (2) (i) or (ii), whichever applies, by 3.7, and subtract therefrom the value determined in (1) hereof; and

(3) Multiply the value determined pursuant to § 904.10 (d) by 10, and subtract therefrom the value determined in (1) hereof.

(4) Multiply the quantity of butterfat by the value determined in (2) hereof, except that for butter or cheese manufactured from milk of more than 3.7 percent butterfat content, the quantity of butterfat represented in the excess over 3.7 percent butterfat content of such milk, shall be multiplied by the value determined in (3) hereof.

(f) *Casein differential.* In the case of skim milk manufactured into casein during April, May, and June, the value of a handler's milk computed pursuant to § 904.9 (a) shall be adjusted by a value determined by multiplying the skim milk equivalent of such casein by a differential computed for each delivery period as follows:

(1) Divide the value determined pursuant to § 904.6 (b) (2) (iii) by .9075;

(2) Compute the average of all quotations (using midpoint of any range as one quotation) published during the delivery period in the "Oil, Paint, and Drug Reporter," for domestic 20–30 mesh casein in bags in carlots at New York, subtract 6.6¢ and multiply this result by 2.42; and

(3) Subtract the value determined in (2) from the value determined in (1) hereof.

5. In § 904.6 (c) add 10 zones to the table as follows:

	A	B	C
301–310		51.0	28.0
311–320		51.0	28.0
321–330		52.0	28.0
331–340		52.0	28.0
341–350		52.5	28.0
351–360		52.5	28.5
361–370		52.5	28.5
371–380		53.0	28.5
381–390		53.0	28.5
391–400		53.0	28.5

6. Revise § 904.7 (f) (3) to read as follows:

(3) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this paragraph.

7. In § 904.9 (a) add a third subparagraph as follows:

(3) Adjust the value determined in (2) hereof as provided in §§ 904.6 (a) and (f).

8. Revise § 904.10 (i) to read:

(i) *Adjustment of overdue accounts.* Any balance due pursuant to this section for any delivery period to or from the market administrator on the 10th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent, effective the 11th day of such month.

This report filed at Washington, D. C., this 18th day of March 1944.

C. W. KITCHEN,
Acting Director of Food Distribution.

[F. R. Doc. 44-3866; Filed, March 18, 1944; 3:14 p. m.]

WAR MANPOWER COMMISSION.

LOUISVILLE, KY., AREA

MINIMUM WARTIME WORKWEEK

Designation of the Louisville, Kentucky, Area as subject to Executive Order No. 9301.

By virtue of the authority vested in me as Regional Manpower Director of Region No. V by § 903.2 of War Manpower Commission Regulation No. 3, "Minimum Wartime Workweek of 48 Hours" (8 F.R. 7225), and having found that such action will aid in alleviating labor shortages which are impeding the war effort, I hereby designate the Louisville Area as subject to the provisions of Executive Order No. 9301.

I. For the purposes of this designation, the Louisville Area shall include:

Jefferson County, Kentucky, Floyd County, Indiana, and Clark County, Indiana.

II. The effective date of this designation is January 10, 1944.

III. Not later than the effective date, each employer in the Louisville Area shall, in accordance with War Manpower Commission Regulation No. 3:

(a) Extend to a minimum wartime workweek of 48 hours, the workweek of any of his workers whose workweek can be so extended without involving the release of any worker;

(b) If extension of the workweek of any of his workers to a minimum wartime workweek of 48 hours would involve the release of any workers, submit to the Area Manpower Director the number and occupational classification of the workers whose release would be involved, together with proposed schedules for their release, and thereafter extend such workweek when and as directed in schedules authorized by the War Manpower Commission;

(c) File an application for a minimum wartime workweek of less than 48 hours for those workers engaged in employment in which the employer claims that a workweek of 48 hours would be impracticable in view of the nature of the operations, would not contribute to the reduction of labor requirements, or would conflict with any Federal, State or local law or regulation limiting hours of work.

Date of issuance: November 13, 1943.

ROBERT C. GOODWIN,
Regional Director, Region V.

[F. R. Doc. 44-3768; Filed, March 17, 1944; 12:22 p. m.]

YOUNGSTOWN, OHIO, AREA

MINIMUM WARTIME WORKWEEK

Designation of the Youngstown Area as subject to Executive Order No. 9301 (8 F.R. 1825).

By virtue of the authority vested in me as Regional Manpower Director of Region No. V by § 903.2 of War Manpower Commission Regulation No. 3, "Minimum Wartime Workweek of 48 Hours" (8 F.R. 7225), and having found that such action will aid in alleviating labor shortages which are impeding the war effort, I hereby designate the Youngstown Area as subject to the provisions of Executive Order No. 9301.

I. For the purposes of this designation, the Youngstown Area shall include:

Mahoning County.

II. The effective date of this designation is April 1, 1944.

III. Not later than the effective date, each employer in the Youngstown Area shall, in accordance with War Manpower Commission Regulation No. 3:

(a) Extend to a minimum wartime workweek of 48 hours, the workweek of any of his workers whose workweek can be so extended without involving the release of any worker;

(b) If extension of the workweek of any of his workers to a minimum wartime workweek of 48 hours would involve the release of any workers, submit to the Area Manpower Director the number and occupational classification of the workers whose release would be involved,

together with proposed schedules for their release, and thereafter extend such workweek when and as directed in schedules authorized by the War Manpower Commission;

(c) File an application for a minimum wartime workweek of less than 48 hours for those workers engaged in employment in which the employer claims that a workweek of 48 hours would be impracticable in view of the nature of the operations, would not contribute to the reduction of labor requirements, or would conflict with any Federal, State or local law or regulation limiting hours of work.

Date of issuance: February 15, 1944.

ROBERT C. GOODWIN,
Regional Director, Region V.

[F. R. Doc. 44-3884; Filed, March 20, 1944; 10:46 p. m.]

KALAMAZOO, MICH., AREA

MINIMUM WARTIME WORKWEEK

Designation of the Kalamazoo, Michigan, Area as subject to Executive Order No. 9301 (8 F.R. 1825).

By virtue of the authority vested in me as Regional Manpower Director of Region No. V by § 903.2 of War Manpower Commission Regulation No. 3, "Minimum Wartime Workweek of 48 Hours" (8 F.R. 7225), and having found that such action will aid in alleviating labor shortages which are impeding the war effort, I hereby designate the Kalamazoo, Michigan, Area as subject to the provisions of Executive Order No. 9301.

I. For the purposes of this designation, the Kalamazoo Area shall include:

Kalamazoo County.
Van Buren County (Bloomingdale, Pine Grove, Waverly, Almena, Lawrence, Paw-Paw, Antwerp, Hamilton, Decatur and Porter Townships only).
Allegan County (Monterey, Hopkins, Valley, Allegan, Watson, Martin, Cheshire, Towbridge, Otsego and Gun Plains townships only).

II. The effective date of this designation is April 1, 1944.

III. Not later than the effective date, each employer in the Kalamazoo Area shall, in accordance with War Manpower Commission Regulation No. 3:

(a) Extend to a minimum wartime workweek of 48 hours, the workweek of any of his workers whose workweek can be so extended without involving the release of any worker;

(b) If extension of the workweek of any of his workers to a minimum wartime workweek of 48 hours would involve the release of any workers, submit to the Area Manpower Director the number and occupational classification of the workers whose release would be involved, together with proposed schedules for their release, and thereafter extend such workweek when and as directed in schedules authorized by the War Manpower Commission;

(c) File an application for a minimum wartime workweek of less than 48 hours for those workers engaged in employment in which the employer claims that a workweek of 48 hours would be impracticable in view of the nature of the operations, would not contribute to the reduction of labor requirements, or would conflict with any Federal, State or local law or regulation limiting hours of work.

Date of issuance: March 1, 1944.

ROBERT C. GOODWIN,
Regional Director, Region V.

[F. R. Doc. 44-3885; Filed, March 20, 1944; 10:46 a. m.]

WAR PRODUCTION BOARD.

BETTER BEVERAGES, INCORPORATED

CONSENT ORDER

Better Beverages, Incorporated, located at 811 North Seventh Street, Steubenville, Ohio, is engaged in the bottling and distribution of non-alcoholic beverages. The War Production Board has charged the company with having used 10,661 gross of new closures made of restricted materials, for the period from June 1, 1942, to January 1, 1944, in excess of the quota permitted under the provisions of Conservation Order M-104 as then in effect. Better Beverages, Incorporated, admits the excess use as charged and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Better Beverages, Incorporated, the Regional Compliance Chief and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered*, That:

(a) Better Beverages, Incorporated, its successors and assigns, shall during the calendar year of 1944 reduce its use of new closures made of restricted materials to be affixed to glass containers for non-alcoholic beverages by 5,752 gross, under the quota it would otherwise be entitled to use in such period, as provided by Limitation Order L-103-b, which on January 4, 1944, superseded Conservation Order M-104, controlling the use of such closures. Any exceptions to the afore-mentioned reduction in use must be specifically authorized in writing by the War Production Board.

(b) Nothing contained in this order shall be deemed to relieve Better Beverages, Incorporated, its successors or assigns, from any restrictions, prohibitions or provisions contained in any other order or regulation of the War Production Board, except insofar as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect as of the date of issuance, and shall expire on December 31, 1944.

Issued this 18th day of March 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-3867; Filed, March 18, 1944; 4:29 p. m.]

WAR SHIPPING ADMINISTRATION.

"SUNBEAM"

DETERMINATION OF VESSEL OWNERSHIP

Notice of determination by War Shipping Administrator pursuant to section 3 (b) of the act approved March 24, 1943, (Public Law 17—78th Congress).

Whereas on October 19, 1942, title to the vessel *Sunbeam* (226577), (including all spare parts, appurtenances and equipment) was requisitioned pursuant to section 902 of the Merchant Marine Act, 1936, as amended; and

Whereas section 3 (b) of the Act approved March 24, 1943, (Public Law 17—78th Congress), provides in part as follows:

(b) The Administrator, War Shipping Administration, may determine at any time prior to the payment in full or deposit in full with the Treasurer of the United States, or the payment or deposit of 75 per centum, or just compensation therefor, that the ownership of any vessel (the title to which has been requisitioned pursuant to section 902 of the Merchant Marine Act, 1936, as amended, or the Act of June 6, 1941, (Public Law 101, Seventy-Seventh Congress), is not required by the United States, and after such determination has been made and notice thereof has been published in the FEDERAL REGISTER, the use rather than the title to such vessel shall be deemed to have been requisitioned for all purposes as of the date of the original taking: *Provided, however*, That no such determination shall be made with respect to any vessel after the date of delivery of such vessel pursuant to title requisition except with the consent of the owner. * * *;

and

Whereas no portion of just compensation for the said vessel has been paid or deposited with the Treasurer of the United States; and

Whereas the ownership of the said vessel, spare parts, appurtenances and equipment is not required by the United States; and

Whereas the former owner of the vessel has consented to this determination and to the return of the vessel and the conversion of the requisition of title therein to a requisition of use thereof in accordance with the above-quoted provision of law;

Now therefore, I, Emory S. Land, Administrator, War Shipping Administration, acting pursuant to the above-quoted provisions of law, do hereby determine that the ownership of said vessel, spare parts, appurtenances and equipment is not required by the United States, and that, from and after the date of publication hereof in the FEDERAL REGISTER, the use rather than title thereto shall be deemed to have been requisitioned, for all purposes, as of the date of the original taking.

Dated: March 18, 1944.

E. S. LAND,
Administrator.

[F. R. Doc. 44-3929; Filed, March 20, 1944; 11:25 a. m.]